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ABSTRACT

Fifteen papers (largely from the 1979 National Symposium on Rural Justice) explore rural crime, criminals, and the rural criminal justice system (law enforcement, courts and the legal process, and jails and corrections). Each section begins with a synthesis. Part I contains two papers: one addresses past research and future directions of rural crime, criminals, and delinquents; the other looks at rural victimization in a southern state. Part II is divided into three sections: (1) law enforcement; (2) rural courts and the legal process; and (3) jails and corrections. The first section provides a perspective on rural crime and law enforcement, changing patterns in law enforcement using the county sheriff as a case study, an approach to enhancement of rural law enforcement, and a community approach to spouse abuse. The following section provides research on rural criminal justice, models for court operations in rural areas, criminal defense in rural America, and rural pretrial services. The last section discusses: problems, people, and solutions for rural jails; a needs assessment for small jails; a national strategy for change in rural jails; a description of the Marengo County Jail Inmate Program; and the philosphy and application of group psychotherapy in regional correctional settings. (AH)

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Criminal Justice in Rural America

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PREFACE

While it is true that the American criminal justice system has been the subject of unparalleled public and governmental scrutiny over the past two decades, it is also true that national attention has been focused primarily on the crime problem and how we deal with it in the urban context. No doubt this is a reflection of the increased visibility of the problems of our cities and the resulting natural tendency to concentrate on responses more suited for application in urban areas than elsewhere.

Similar to what has occurred in other fields as the face of rural America has begun to change, the criminal justice community has witnessed in recent years the emergence of rural advocates who express concern that this urban preoccupation is causing policy and decision makers to continue to overlook the criminal justice problems, often unique but every bit as real, of our small towns and rural areas. Notwithstanding their emergence, however, rural criminal justice scholars and advocates remain largely an uncoordinated and fragmented group with little national communication among themselves. Consequently, an appropriate awareness and understanding of contemporary rural criminal justice problems and promising solutions continues to be obscured.

The National Rural Center first initiated a response to this problem in planning an invitational conference, "A Beginning Assessment of the Justice System in Rural America," held in Austin, Texas, October 1977. One of the results of this effort was pressure to hold an open conference on rural justice in an attempt to identify and link those from various disciplines who are currently working on rural justice issues. Based on this pressure, the National Rural Center contacted the University of Tennessee School of Social Work's Office of Continuing Social Work Education to help initiate such a conference which resulted in the National Symposium on Rural Justice held June 20-22, 1979 in Knoxville, Tennessee. The symposium brought together nearly 200 rural justice scholars, practitioners and rural citizens to identify rural justice problems, share experiences and ideas, and discuss a variety of carefully selected papers and presentations.

Recognizing that one of the problems in the rural justice field was a lack of organized literature, the symposium was planned with the thought of organizing presentation papers into a series of publications dealing with rural justice. This publication and a companion publication, Juvenile Justice in Rural America supported by the Office of Juvenile Justice and Delinquency Prevention, represent this effort.

The criminal justice papers available from the symposium were reviewed to identify those dealing with crime and criminals, law enforcement, courts and the legal process, or jails and corrections. Where these were not available from the symposium, the literature was reviewed to secure papers already available and/or potential authors were asked to produce relevant material on the needed subject. Thus, this publication draws together the current state of the art in rural criminal justice with the objective of providing an initial attempt at producing an organized body of literature in this area. To the extent that this is at all successful toward that end, it will have been worth the investment. It is our hope, however, that it can serve several additional purposes.

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For example, the editors' notes and references throughout the papers comprise an extensive literature review. As reference material providing an assessment of various aspects of the rural criminal justice system, it should reveal useful insights for national and local policymakers, planners and practitioners. For rural justice scholars and academicians, it should suggest a comprehensive research agenda thereby identifying important questions we know little or nothing about.

The material in this book has been organized into two major sections, one dealing with the nature of crime and criminals in rural areas and the other with the rural criminal justice system. Within this second section, subsections on law enforcement, courts and the legal process, and jails and corrections will be found. Each major section is prefaced by an introductory statement which provides a review of the material contained therein and should enable the reader to locate specific material when required.

However useful it may prove to be, this work most certainly will stand as only a modest beginning to the major task we face in developing and centralizing critical information on the rural criminal justice system, its problems and promising solutions. If it should in any way stimulate any other initiatives to that end, our fondest hopes will have been realized.

ACKNOWLEDGMENTS

The effort required to plan and execute a national symposium and produce a usable publication as a result can only be generated by the total work of a large number of persons. Although the editors were involved from the beginning, it was only through the support provided by our respective organizations and the many cooperating organizations that this publication is made possible.

Appreciation is given to the strong support provided by Ben P. Granger, Dean of the University of Tennessee School of Social Work, and Jack Cornman, President of the National Rural Center, who provided the organizational backing necessary to carry off the symposium and initiate this publication.

In addition to the editors, the symposium planning committee consisted of Gideon Fryer and Richard Edwards of the University of Tennessee School of Social Work, Curtis Wells of the University of Tennessee College of Law, David Brown of the University of Tennessee Department of Agricultural Economics and Rural Sociology, Stephen Webster of the University of Wisconsin School of Social Work and Joanne Pozo of the National Resource Center for Consumers of Legal Services. We thank those members for their dedicated efforts in planning the symposium and providing the vehicle for this publication.

No publication is possible without a great deal of professional work by those who provide technical editorial assistance. Much thanks is given to Sally Johnson, publications editor for the Office of Continuing Social Work Education, and her editorial and word processing staff: Ann Wilson, JoAnna Cheatham, Joyce Payne and Pamela Jones.

Finally, we acknowledge the critical support provided by the National Institute of Justice that enabled us to bring this publication from merely an idea into actuality.

PART I

RURAL CRIME AND RURAL CRIMINALS

Introduction to Part I

Part I of this compilation focuses on what we know about the incidence and nature of rural crime and the characteristics of rural offenders. Part II is devoted to examining the rural criminal justice system and its three basic components--law enforcement, courts and the legal process, jails and corrections.

As the relative disparity in the size of Parts I and II would suggest, the most striking revelation of a literature review on rural crime and rural offenders is how much we don't know. Perhaps no one is better qualified to make that observation than Professor John R. Warner, Jr., of West Virginia Wesleyan College, Department of Sociology, Buckhannon, West Virginia. In his presentation which so appropriately leads this compilation, Professor Warner assesses the state of rural crime research and in so doing provides a glimpse of the nature of rural crime and the behavior of rural offenders past and present. He further introduces several themes which recur throughout this compilation--the need to distinguish between the small town and countryside, and marked changes in the rural crime rate in recent years. His work uniquely qualifies him to identify the gaps in a fundamental rural crime and justice data base and to suggest a research agenda upon which change and improvement no doubt will be predicated.

A common observation of virtually all rural justice advocates is that justice data, which are typically gathered from national sources such as the F.B.I.'s Uniform Crime Reports, simply don't provide enough useful and easily retrievable information relative to the rural setting. Rarely is an urban/rural split designed into the information-collecting instruments and, more often than not, the cost of massaging the huge data files that contain revelant information to collect rural figures is prohibitive.

In recent years a handful of rural-focused crime surveys have cropped up, hopefully signaling a new and increased level of interest in rural crime. One of the most recent was implemented by Professors James Moore and Raymond H.C. Teske of Sam Houston State University in Huntsville, Texas. Their Texas statewide project was a "victimization" study--that is, it gathered data from surveys of the general population rather than from the records and reports of law enforcement agencies. A principal advantage of such methodology is that it avoids the "underreporting" phenomenon so prevalent in rural and small town environments. The results and implications of the Texas study are generally consistent with the findings of other rural crime researchers and are discussed in the second presentation of Part I.

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CHAPTER I

RURAL CRIME, RURAL CRIMINALS, RURAL DELINQUENTS: PAST RESEARCH AND FUTURE DIRECTIONS

by John R. Warner, Jr.

Records from English history indicate the problem of rural crime is nothing new. Rural crime reached crisis proportions in the latter half of the thirteenth century when "bands of robbers called Drawlatches and Roberdsmen, . . . concealing themselves in the thick undergrowth by the roadside" waged a reign of terror against travelers. So critical was the problem that in 1285 the Statute of Westminster decreed that roads between market towns...

> . . .shall be enlarged so that there be neither dyke, tree nor bush whereby a man may lurk to do hurt, within two hundred foot on the one side and two hundred foot on the other side of the way (Smith, 1933, p. 7).

Nor is the study of rural crime an innovation. Half a century ago, Sorokin, Zimmerman and Galpin (1930) surveyed the literature on rural crime in fifteen countries including the U.S.A., Great Britain, Australia, British India and eleven European nations. Their survey, covering literature between the years 1857 and 1920, led the authors to set forth the following nine propositions:

1. In proportion to the population, the number of crimes or offenses is greater in the cities than in the country.

2. Data concerning the residence of offenders show that the city population yields a greater number of offenders than the country population.

3. Data concerning the place of birth of offenders indicate cities produce a greater proportion of offenders than rural areas, but this factor is of less importance than residence of the person at the time under consideration.

4. The agricultural population is one of the least criminal of all occupational classes.

5. On the whole, the country population is more law-abiding than that of the city.

6. The professional and official classes of the city are definitely less criminal than the agricultural class taken as a whole. This means the urban population again shows a greater variation than the rural population.

7. In the majority of countries the criminality of the agricultural class is manifested somewhat more strongly in crimes against persons, particularly in homicide, infanticide and grave assaults, than in crimes against property, with the exception of

arson and cattle stealing, which are predominantly rural crimes. . . . This conclusion must not be interpreted to mean that the rural or agricultural population generally has a higher rate of crimes against persons than the city population. On the contrary, in many countries the rural rate still remains below the urban rate. But in proportion to all crimes, crimes against persons are a larger percentage in rural areas than in urban areas.

8. Crime in the cities has a finished technique requiring strategy, deceit, scheming and lying, while rural crimes are more direct, more naive, less deceitful and less strategical.

9. The city population yields a greater number of repeaters than the country population.

The author of this paper has surveyed most of the literature published between 1930 and 1979 in an attempt to determine just what has been said about rural crime in the past half century (Warner, 1978). The major themes developed in that literature and the suggested directions for future research will be discussed in this article.

Definition of Rural Crime

The problem of defining "rural crime" pervades the literature. It was noted 47 years ago in what may have been the first book on rural crime ever published in America. Smith (1933) wrote:

> It is necessary to emphasize the fact that the terms 'urban' and 'rural' often lack any precise significance. Even when closely defined for a specific purpose, no uniform rule applies, with the result that rural crime statistics occasionally include areas which are of urban character in some of their aspects.

Over the past half century we can report "no progress" in the problem recognized by Smith. Clinard (1942) divided the population of offenders at the Iowa Men's Reformatory into three categories: rural--areas with a population of less than fifty; village--areas with a population of fifty to 4,999; and urban--areas with 5,000 or more. Wiers (1939), Lagey (1957), Ferdinand (1964), Han (1971), and Phillips (1975) studied "rural counties" which include rural residents and small towns located in those counties. Boggs (1971) used the term "rural" to include "small town and rural residents," and for Lentz (1956) rural meant "all open country and rural trading centers included within the rural community."

The problem of mixing rural persons and residents of small towns in relation to crime rates is illustrated in Table 1 (on page 8) and discussed below.

Small Towns vs. Rural Areas

Following U.S. Census Bureau definitions, the F.B.I.'s Uniform Crime Reports designate as "urban" all communities with a population of 2,500 or more and distinguish six classes of cities based on population. Class VI cities are those which are generally called "small towns." They are communities with populations of 2,500 to 9,999. Table 1 displays the ratio of rural crime rates (per 100,000 population) for thirty offenses compared with crime rates for small towns. As demonstrated in the table, rural crime is a different sort of thing than small town crime. In 1976 there were ten categories of crime for which police made arrests more often in rural areas than in small towns, and nineteen categories for which police made more arrests in small towns. Fraud, offenses against family and children, manslaughter and murder occurred more than twice as often in rural areas as in small towns, and rape and embezzlement were reported more than one and one-half times as often in rural areas as in small towns. On the other end of the scale, there were seven categories of crime which were reported more than twice as often in small towns as in rural areas. Small towns and rural areas are not homogeneous areas!

Inaccuracy of Official Records

The inaccuracy of police records is thoroughly documented and discussed in all criminology textbooks. The problem is probably greater in rural areas than in cities and this problem has led some (Schlutz, 1976) to doubt that urban-rural differences are as great as they seem. The problem was noted by Smith (1933) long ago, when he reported:

> . . . the tendency of rural residents to withhold information concerning offenses from police officials and the defective records of rural officials undoubtedly affect these comparisons.

Magnitude

It has long been recognized that crime rates are higher in urban areas than in rural areas and for most (but not all) crimes there is a positive correlation between the population size and crime rates. Polk (1967) writes:

> Over time, one of the most consistent regularities found in crime statistics is the higher overall rate of crime in urban as compared to rural areas. However, the degree to which urban rates exceed rural rates varies with offense, with locale and with time.

This point is illustrated in Table 2 (on page 9) from Uniform Crime Report 1976 data for arrest rates in six classes of cities and in rural areas.

Rural Crimes

Sorokin et al. (1930) found the crimes of arson, cattle stealing, infanticide and specific violations of agricultural laws were more commonly committed in rural areas than in urban areas, and found that crimes against the person were more common in rural areas (in comparison to all crimes in rural areas) than property crimes.

In order to determine what crimes are "officially" rural crimes, we divided the arrest rates for thirty categories of crimes in rural areas by the arrest

TABLE 1

Ratio of Rural Crime Rates to Small Town Crime Rates

Crime	Ratio (Per 100,000 population)
Fraud	2.90
Offenses against family and children	2.70
Manslaughter by negligence	2.49
Murder and nonnegligent manslaughter	2.46
Forcible rape	1.72
Embezzlement	1.58
Forgery and counterfeiting	1.29
Arson	1.04
Aggravated assault	1.04
Burglary, breaking and entering	1.01
Robbery	1.00
Auto theft	.85
Driving while intoxicated	.84
Runaways	.82
Narcotics and drug violations	.81
Prostitution and commercialized vice	.80
Possession of stolen property	.74
Other assaults	.72
All other offenses	.72
Other sex offenses	.68
Weapons violations	.63
Drunkenness	.59
Vagrancy	.56
Suspicion	.46
Larceny	.44
Gambling	.43
Vandalism	.40
Liquor violations	.39
Disorderly conduct	.29
Curfew violations	.12

Source: United States Department of Justice, Federal Bureau of Investigation, Uniform Crime Report 1976 (Washington, D.C.: GPO, 1977).

Note: Based on arrests per 100,000 population. Ratio determined by dividing rural arrest rate by Class VI urban arrest rate.

TABLE 2

Arrest Rates for Cities and Rural Areas

Area type	Rate of arrests per 100,000 population
Class I Cities 52 cities over 250,000	1,494
Class II Cities 98 cities 100,000 to 249,999	1,333
Class III Cities 235 cities 50,000 to 99,999	1,139
Class IV Cities 564 cities 25,000 to 49,999	1,089
Class V Cities 1,402 cities 10,000 to 24,999	930
Class VI Cities 5,264 cities 2,500 to 9,999	778
Rural Areas 1,904 areas reporting	537

Source: Uniform Crime Report 1976, index crimes only.

rates for those categories in urban areas, using data from Uniform Crime Report 1976. The results are listed in Table 3 on page 10 for the thirteen "rural crimes."

According to F.B.I. information, the four crimes reported more often in rural areas than in urban areas are offenses against family and children, fraud, manslaughter by negligence and driving while intoxicated. Of these, manslaughter is certainly explained by traffic deaths on the highways and by hunting accidents, neither of which seem to be characteristic of rural people but only the rural location.

It is interesting to note that Sorokin et al. (1930) list fraud, forgery and intemperance (alcohol) as particularly urban crimes, while all three appear very high on the rural end of the continuum according to Uniform Crime Reports information.

Lentz (1956) compared rural and urban boys in the Wisconsin School for Boys. He found that rural boys were more often charged with sex offenses, nominal breaking and entering, truancy and general misconduct, while urban boys were more often charged with serious breaking and entering, serious and nominal theft and car theft. Rural sex offenses tended to be indecent

TABLE 3

Ratio of Rural Arrest Rates to City Rates

Crime	Ratio
Offenses against family and children	2.45
Fraud	2.09
Manslaughter by negligence	2.08
Driving while intoxicated	1.21
Murder and nonnegligent manslaughter	.98
Forgery and counterfeiting	.97
Arson	.82
Aggravated assault	.79
Liquor violations	.78
Forcible rape	.77
Runaways	.71
Narcotics	.70
Burglary, breaking and entering	.70

Source: Uniform Crime Report 1976.

Note: Ratio obtained by dividing rural arrest rate (arrests per 100,000 population) by urban rate. The total rural/urban ratio was .63. The thirteen crimes listed here are those for which the ratio is higher than .63.

exposure, rape of small girls and sodomy, while urban boys were more often involved in prostitution and "gang shags."

In his study of delinquency in rural Michigan, Wiers (1939) found that burglary and stealing constituted sixty percent of the offenses for which male delinquents were charged, while thirty percent of the females were charged as being "ungovernable," and nineteen percent were charged with sex offenses.

Phillips (1975) found that in rural Ohio vandalism was the most common crime and rural mailboxes were the primary targets of this vandalism. Ranking second was theft with the primary targets of rural theft being gasoline tanks in farmyards. Rural sheriffs reported, however, that sixty percent of their arrests were of urban boys.

Gibbons (1972) shows that in rural Oregon "folk crimes" are the greatest problem faced by law enforcement officers. Folk crimes include highway violations and violations of hunting and fishing codes. Ferdinand (1964) found as urbanism increased, offenses against authority increased (status offenses), while offenses against property remained constant for juveniles in Michigan.

Characteristics of Rural Offenders

Although several studies deal with the issue of rural offenders, perhaps the best sketch was developed by Clinard (1942, 1944, 1960) more than three decades ago. According to Clinard, the typical rural offender was characterized by the following:

1. Rural offenders were highly mobile as compared to rural nonoffenders.
2. Rural offenders participated only to a limited extent in local community affairs.
3. Rural offenders tended to establish "impersonal" relationships.
4. Their criminal or delinquent behavior commenced relatively late in their youth.
5. They did not generally engage in organized criminal activity.
6. Their criminality was largely adventitious.
7. Their knowledge of criminal techniques was limited.
8. They did not conceive of themselves as criminals nor their acts as crimes.
9. Delinquent gangs were not an important factor in the lives of rural offenders.

Crime Rates as a Variable of Rural Structure or Rural Culture?

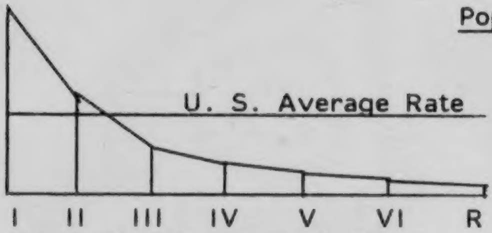
Using ten "structural variables," Quinney (1966) compared crime rates in rural, urban (small and medium-sized cities) and metropolitan areas. Those "structural variables" were: median years of schooling, median family income, percent white collar males, percent nonwhite, percent change in residence, percent employed in manufacturing, occupational diversity, percent aged fifty and over, percent females in the labor force, and percent owner-occupied dwelling. He found that rural and urban areas were "more sensitive to structural variations in relation to crime rates than were the larger (metropolitan) areas."

The question of rural structure and rural culture emerges from a visual analysis of Graph 1 (on the following two pages). Here crime rates for six classes of cities and for rural areas are presented graphically, superimposed on the national average.

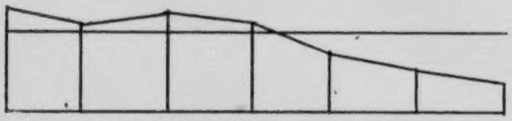
Essentially four patterns emerge. The first pattern fits the popular stereotype of urban-rural crime rates as illustrated by the graph for robbery. Here the rates are highest in the most urban areas and decrease with

Graph 1: Crime and Population Areas: 1976

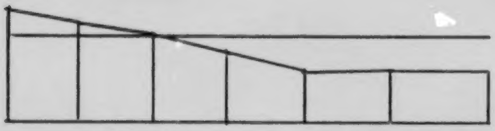
Population Structure Pattern



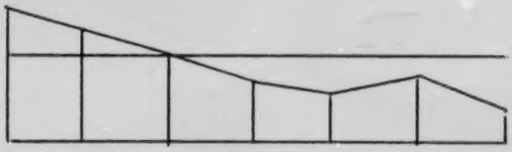
Class of cities or rural areas.
Robbery



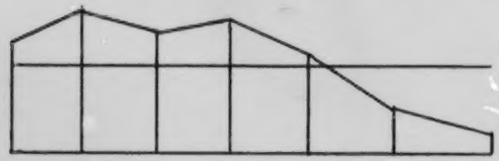
Receiving stolen goods



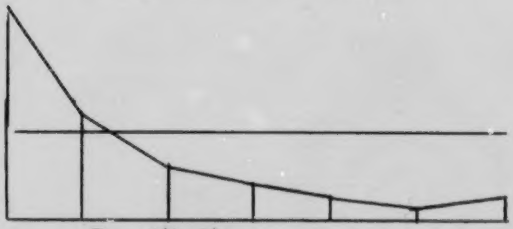
Breaking and Entering



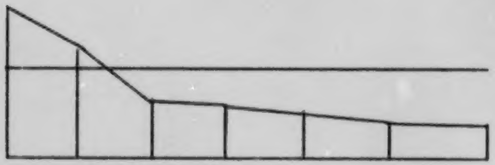
Weapons law violations



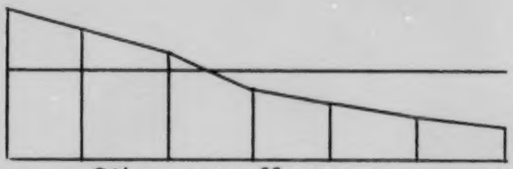
Larceny



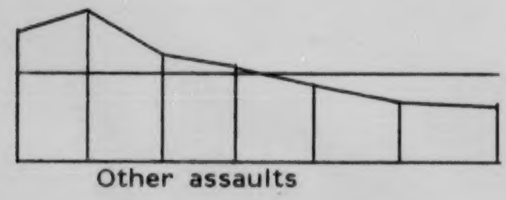
Prostitution



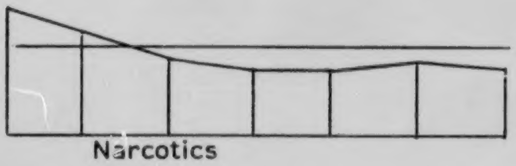
Auto theft



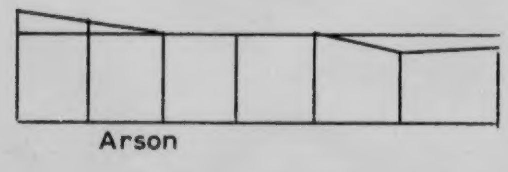
Other sex offenses



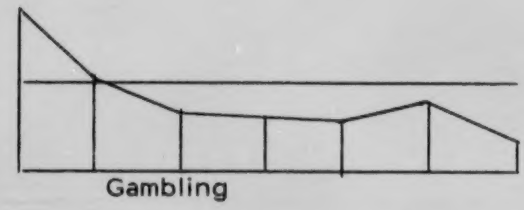
Other assaults



Narcotics

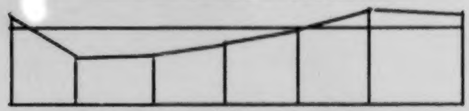


Arson



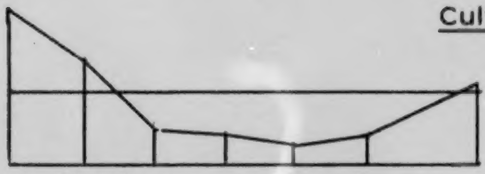
Gambling

Enforcement Pattern A

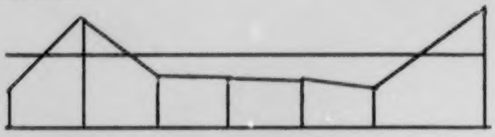


Driving while intoxicated

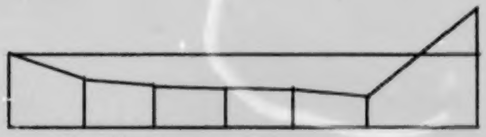
Cultural Pattern



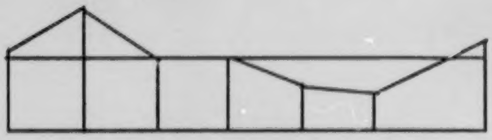
Murder



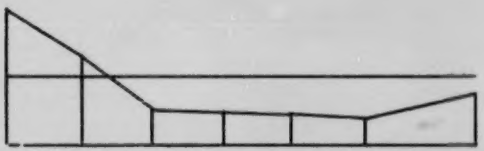
Offenses against family and children



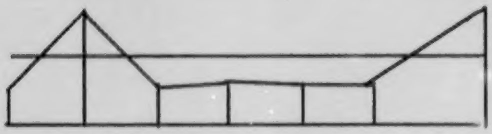
Negligent manslaughter



Forgery and counterfeiting

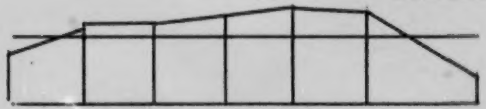


Forcible rape

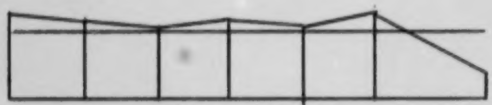


Fraud

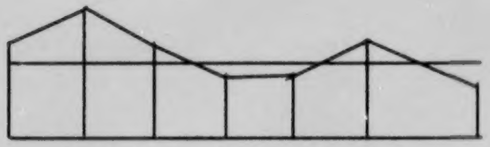
Enforcement Pattern B



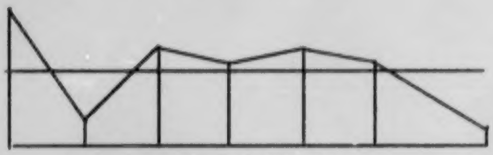
Vandalism



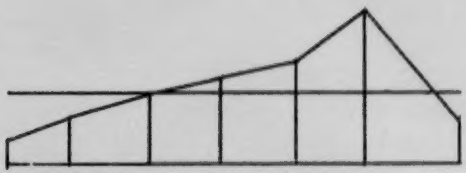
Disorderly conduct



Drunkenness



Curfew and loitering violations



Liquor law violations

Source: Uniform Crime Reports 1976. Arrests by population areas. See Table 2 for definitions of classes of cities.

the size of the community. There is a simple, positive correlation between population and crime rates. This is the most common pattern, characterized by fifteen categories of crime including most property crimes, vice (sex, narcotics, gambling), arson (contrary to Sorokin's findings), runaways, "other assaults," vagrancy, suspicion and weapons violations. The fifteen categories illustrate, I believe, a *structural pattern* in which crime rates are a function of population density.

The second pattern indicates a negative correlation between crime rates and population density: as population decreases, crime rates increase. This pattern is illustrated by one category only, driving while intoxicated. This arrest pattern might well be a function of police boredom rather than population structure! Studies by Wiers (1939), Lentz (1956), Polk (1967) and Gibbons (1972) suggest that rural justice is *more* punitive than urban justice. Persons in smaller cities and rural areas are often arrested for minor crimes which would be overlooked in more urban areas. Judges or juries are more punitive in smaller cities and rural areas than in larger cities. Lacking the excitement of urban crime, police in rural areas "over arrest" violators of minor ordinances such as traffic laws. I suggest labeling this pattern *Enforcement Pattern A*.

The third pattern is characterized by a radical discontinuity between rural crime rates and the structural pattern for cities. The pattern is illustrated by categories of murder, manslaughter, forcible rape, forgery and counterfeiting, fraud and offenses against family and children. In each category there is a negative correlation between population and crime rates for cities, yet crime rates increase in rural areas. I suggest labeling this pattern a *cultural pattern*, which is suggested as an untested hypothesis. Because population structure does not account for these crime rates in rural areas, the explanation *may lie in cultural* characteristics of rural society.

The fourth pattern is the reverse. Here crime rates generally increase or remain stable as population decreases *for cities*, yet for rural areas crime rates decrease. This pattern is illustrated by vandalism, drunkenness, liquor law violations, disorderly conduct, curfew and loitering violations. In attempting to make sense out of this pattern, I am particularly mindful of the Phillips study (1975) indicating that *vandalism* was the *farmer's number one complaint*. I suggest that the low arrest rate for these crime categories in rural areas is more likely a function of the difficulties of rural law enforcement rather than of rural structure or rural culture. I label this *Enforcement Pattern B* but, lacking better information, I recognize that this is done only as a hypothesis.

Type of Rural Community

Crime rates vary with the economic characteristics of rural areas, as noted by Yoke (1932), Wiers (1939), and Polk (1967). Polk writes:

> From time to time and place to place, there have been exceptions to this trend [low crime rates in rural areas]. Elliott (1944) suggests that the existence of 'frontier mores' accounted for high rates of crime in some communities even though small in size during the developing years of the United States, and may still have an impact. Thus, frontier towns, river towns, seaports, and border areas have had high rates of crime regardless of the degree of

population concentration. Logging counties and mining counties have also been found to have relatively high crime rates, in spite of the nonurban classification of the counties. This has often been accounted for by the preponderance in these areas of young, single males who constitute a high criminal risk category.

Wiers found that among rural counties in Michigan delinquency rates were lowest for agricultural counties, followed by upstate logging and mining counties and higher still for rural industrial counties. Yoke found crime rates were higher in rural coal-producing counties in West Virginia than in rural counties with higher agricultural populations.

Ecological Studies

Using a method not unlike the Shaw (1929) concentric circle studies of crime rates in Chicago, Smith (1937) studied delinquency rates in "concentric" tiers of counties surrounding urban areas in Kansas.* Results were similar to those in Chicago's concentric zones. Delinquency rates were highest for the urban counties, followed by the next tier of counties adjacent to the urban county and were lower still for the second tier, etc.

Lagey (1957) plotted the location of delinquents' residences in a rural county in western Pennsylvania over a three-year period in the 1950s. He discovered that there was not a random scattering of dwelling places of delinquents, but that indeed they seemed to be located primarily in four very specific areas of the county. Furthermore, there was a tendency for delinquents to live within 500 feet of a railroad track or a river, creating a "ribboning" pattern.

A Regional Analysis of Crime Rates

A larger ecological approach to crime is the regional analysis developed by Lottier (1938) and sustained by Shannon (1954) and Kowalski (1979). Lottier utilized the (then) newly developed Uniform Crime Reports to determine crime rates for several categories of crimes in the forty-eight states. Lottier ranked the states by crime rates for murder, robbery and larceny, developing six rank-groups with eight states in each group. Plotting the rank-groups on the U.S. map revealed clear and definite regional patterns of crime rates. All eight states ranking in the top (highest rate per hundred thousand) rank-group for murder were Southern states, while six of the eight states ranking lowest in homicide rates were the six New England states. The other two states in that group were northern states--Wisconsin and North Dakota.

For robbery the high ranking group turned out to be a belt of central states from Kentucky to Colorado, while New England states again ranked lowest. The regional pattern for larceny was also clear: seven of the eignt states with the highest larceny rates were western states from Texas to Oregon, and again New England states ranked lowest.

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*Smith does not refer to the work of Shaw, but to Park (1929).

The pattern has clear implications for the study of rural crime (or urban crime for that matter), particularly because none of the states ranking highest in murder, robbery and larceny were urban-industrial states.

Patterns of change are seen through similar studies by Shannon (1954) and Kowalski (1979). Kowalski's maps indicate that robbery in particular has shifted to urban states, while the most stable pattern is that of Southern homicide.

The South: A Region of Violence?

Because the South is a rural region and the caricature of Southern violence is rural violence, included is a discussion of those studies which deal with Southern violence.

> A tendency toward violence has been one of the character traits most frequently attributed to Southerners. In various guises, the image of the violent South confronts the historian at every turn: dueling gentlemen and masters whipping slaves, flatboatmen indulging in a rough-and-tumble fight, lynching mobs, country folk at a bear-baiting or a gander-pulling, romantic adventurers on Caribbean filibusters, brutal police, panic-stricken communities harshly suppressing real and imagined slave revolts, robed night riders engaging in systematic terrorism, unknown assassins, church burners, and other less physical expressions of a South whose mode of action is frequently extreme. The image is so pervasive that it compels the attention of anyone interested in understanding the South (Hackney, 1969).

High homicide rates in the South were observed at least a century ago (Redfield, 1880) and the topic of Southern violence has been the source of numerous scientific essays (not to mention works of fiction). One of the first authors to accumulate quantitative data to support the description of the South as "that part of the United States lying below the Smith and Wesson line," was H.C. Brearley (1934). He found that during the five years from 1920 to 1924 the homicide rate for Southern states was more than two and one-half times greater than for the rest of the nation.

Cash (1941) explains Southern violence by various hypotheses: frontier mentality, cult of honor, life on the plantation, defeat in the Civil War, disrespect for the developing institutions of post-Civil War law administered by "carpetbaggers." Hackney finds most plausible the thesis that it is the relative absence of law enforcement institutions, the strength of the plantation in maintaining order prior to the Civil War and the disrespect for agencies during Reconstruction which explains Southern violence.

We cannot review the debate over Southern violence, but want only to note that it has been a controversial topic with heated arguments both defending and attacking Southern culture. [See Porterfield, 1949; Pettigrew, 1962; Gastil, 1971; Loftin and Hill, 1974; and Doerner, 1975.]

Alaska: Crime in the Bush

The heterogeneous character of rural crime becomes clear to the spellbound audiences of John Angell who describes his study of crime in the Alaskan bush country. Pursuing his study on dogsled and Piper Cub across an expanse of land and islands as broad as that from Baltimore to Los Angeles, Angell (1978, 1979a, 1979b) describes preliterate villages terrorized by a drunken clansman, the problems of policing and administering justice when one officer is responsible for literally thousands of square miles of barren land north of the Arctic Circle where villages of less than 100 inhabitants call for police over shortwave radio and where a hungry pack of dogs nearly eats a terrified child, necessitating a trip to a hospital equal to the distance between Boston and Chicago. No complete study of rural crime can overlook this fascinating description of another face of a complex issue.

Crime in Developing Countries

Further expanding the kaleidoscopic character of our topic, Clinard and Abbott (1973) bring together "most of the existing findings on crime in Africa, Asia, and Latin America, and the results of our own extensive research in Uganda." The authors observe that almost no standard work on urbanization nor on criminology deals with their topic, while in fact "one measure of the effective development of a country probably is its rising crime rate."

While their focus is on urbanization and change, the process of urbanization is, of course, only possible in less-than-urban areas. This study of crime in developing countries is indeed a study of rural-urban dynamics.

Criminological Theory and Rural Crime

Criminological theory has developed in an urban setting and is, to some extent, an explanation of urban crime. Most theories, whatever the origin, explain why crime rates increase with increased population density. The flip side is a theory which explains why rural areas are relatively crime-free. What is needed is not an explanation of why crime does not happen in rural areas, but a theory which explains why it does happen. With this in mind, we shall survey the criminological research which draws upon theoretical explanations in an interpretation of rural crime.

Absence of a Criminal Subculture in Rural Areas

The rural community is generally free of alternative cultures or subcultures, including criminal subcultures. Thus, a person may deviate from community expectations in rural America and find a few friends to join him. But he will not find a value system, a tradition, a social organization, a profession or a jargon which will support him in his deviance.

> In rural areas, there is a comparative absence of continuity in the criminal culture as compared with the interstitial slum areas of a more heterogeneous urban culture (Polk, 1967).

In his study of rural crime and rural criminals in America, Clinard (1942) writes:

> As long as there exists a predominant measure of personal relationship and informal social control in the farm and village areas, it will be impossible for a separate criminal culture to exist. Without the presence of criminal social types, the volume of crime committed by rural residents will continue to be small as compared with that of more urban areas.

Clinard (1960) later confirmed this hypothesis in Sweden as well.

While subculture theory may be used to explain the relatively low property crime rates in rural areas, Kaplan (1961) uses subculture theory to explain the relatively high rate of crimes against persons.

> Differences in rural and urban [crime rates] can perhaps be explained in terms of the differences between urban and rural subcultures. The relative homogeneity of the rural areas and the techniques of social control are probably explanatory of the differences in property crimes. Differences in crimes against the person are similarly explainable, although the relatively greater rate for crimes against the person in rural areas can probably be understood in terms of isolation, self sufficiency, sensitivity to personal affront, and an individualistic tradition.

Differential Association

> Most rural offenders are of the individual rather than of the group type. Their differential association has been of an occasional or fortuitous character (Clinard, 1960).

Gibbons (1972) questions the applicability of Sutherland's theory of differential association to rural crime. In his sketch of "criminals of the hinterland" in rural Oregon, Gibbons writes:

> Most of the offenders who are the subject of this research are petty lawbreakers. Not many of them resemble professional criminals or other career criminals who acquired antisocial attitudes out of some process of differential association. Instead, it may be that the offenses of many of the individuals in this hinterland area stemmed more from situational contingencies and influences than from criminal motivation.

In his study of rural offenders, Clinard (1944) found that two-thirds of the farm boys had not been associated with groups of boys who stole, and that eighty-seven percent of the boys who committed serious thefts had not been so affiliated. "More often, where differential association occurred, it was with one or two companions rather than with gangs. At times the companions were chance acquaintances whom they met in town," he reported.

Anomie and Rural Crime

Generally the theory of anomie suggests a quality of urban life. Durkheim's (1964) theory of anomie is characterized by a transition stage from rural to urban-industrial life. Wirth (1938) describes the anomie of urban life as follows:

> The superficiality, the anonymity, and the transitory character of urban-social relations make intelligible . . the sophistication and rationality generally ascribed to city-dwellers.

Using Srole's (1956) anomie questions and scale, Killian and Grigg (1962) found little difference between urban and rural residents so far as anomie could be measured. In fact, Lagey (1957) and Clinard (1944) suggest the presence of anomie in rural areas might indeed explain some rural crime. Lagey finds that rural delinquents are isolated, that "the rural offender may suffer from anomie." In Clinard's (1942) study he found that:

> . . . the impersonality in the lives of the farm and village offenders seemed to be [due to] a lack of general participation in community organization.

Ball and Lilly (1971) compared the anomie (Srole scale) scores of (normal) male students in a "rurban" public school in West Virginia, only to discover that these students displayed a higher anomie score than "tough" boys from a high delinquency area in Columbus, Ohio. A question for further research is this: Do West Virginia boys score high on the anomie scale because they are rural or because they are Appalachian, or both?

Alienation

Using "perceived limited opportunities" as an indicator of alienation, Han (1971) found a high alienation factor among rural youths in the Upper Cumberland region of Tennessee.

Changing Crime Rates in Rural America

In 1972 the ratio of rural arrests to urban arrests (Uniform Crime Report 1976) was two to five. By 1976 that ratio had increased to three to five. That great increase in the portion of rural to urban crimes suggests a radical change in the nature of the imaginary peaceful countryside. Whether this fifty percent increase (2,079/100,000 in 1972, 3,171/100,000 in 1976) in rural arrests indicates improved recordkeeping or increased rural crime, the historic view indicates that this is not the first such relative increase. Smith (1933) points to other "epidemics" of rural crime in other ages. Citing Webb and Webb (1913), Smith writes of rural England:

> For the first half of the eighteenth century, all evidence leads to the impression that crime and disorder were much less prevalent in the rural districts and the provincial towns than in the metropolis. . . After the middle of the century the picture gradually changes for the worse. With the increase in vagrancy, coupled with the growth of passenger traffic and mails, there appears on the great roads, the professional highwayman. [There was also] a general increase in rural delinquency (Smith, 1933, p. 7).

Smith also reports a threefold increase in rural crimes compared to urban crimes in England between 1911 and 1928.

Bloch (1949) is one of the few scholars who has focused on social change as a variable tied to rural crime. Block studied the effects of the Great Depression on rural crime, comparing offenders appearing before the St. Lawrence (New York) County Court in 1927-1929 with those in 1939-1941.

The Administration of Rural Justice

Bruce Smith (1933) has given us an early start in the analysis of rural justice. His historical approach presented under a single cover a discussion of the rural sheriff, the constable and county constabularies, the origins and development of state police, the county coroner and the rural justice of the peace. He concludes his work with a chapter entitled "Outlines of Future Development." An interesting study would be a review of this work and an analysis of actual developments from that time to this. But that is for another researcher at another time. [See also Esselstyn, 1953; Boggs, 1971; Poveda, 1972; Schultz, 1976].

Discussion: Directions for Future Research

The above survey has been presented to indicate the major themes--and some of the results--of the studies to date in the emerging field of rural crime. I want to close with suggested directions for further research. The field needs:

1. A better history.
2. Clear separation of "rural" and "small town" areas.
3. Work in both "small town" and "rural areas."
4. Continued work in the analysis of the culture of rural areas which might help explain the etiology of rural violence.
5. Development of crime category studies: fraud, manslaughter, arson, etc.
6. Studies determining whether it is true that rural police and rural courts are more punitive than urban police and courts, and if so, why.
7. Particular studies of rural violence in the home as suggested by the extremely high rates of rural, as compared to urban, home violence; included should be studies of incest as well as assaultive behavior.
8. Regional studies--Appalachia, Midwestern farm areas; Southern crime, etc.
9. Studies focusing on economic types of rural counties: agricultural, coal mining and other extracting industries, lumber industries, fishing industries, etc.

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10. Development of studies which distinguish between rural structure and rural culture as criminogenic variables.

11. Improved self reports, cohort studies and victim reports.

12. Replication of earlier studies.

13. Class and social structure studies: farm workers and farm owners, independent farm owners and corporation farming areas.

14. Racial and ethnic studies of crime in rural areas.

15. Studies over time, including studies of social change, development, urbanization.

16. Studies which evaluate the effects of rapid social change resulting from specific events such as the energy crisis, war, depression, recession and inflation.

17. The application of criminological theory: anomie, alienation, differential association, subcultural theories, gangs and isolates, Parson's pattern variables, Durkheim's "mechanical solidarity," gemeinschaft, culture lag theory, etc.

18. Inter-institutional studies: rural religion and rural crime, the rural school and rural crime, the rural family, etc.

19. Studies of urban persons in rural areas and particularly the growing influence of organized crime in rural areas.

20. The effects of legislation and court decisions at the state and federal level (Appalachian Act, Juvenile Justice and Delinquency Prevention Act, etc.).

21. Studies of female criminals in rural areas. [For a good start, see Steffensmeier and Jordan, 1978, and Ferdinand 1964.]

22. Finally, it will be important to read the existing literature in order to gain a sense of direction (see Warner, 1978).

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Editors' Notes

1. Also reflecting Professor Warner's extensive survey of rural crime and justice literature is a bibliography which he published: Warner, John R. Jr., Rural Crime: A Bibliography, Monticello, Ill.: Vance Bibliographies, 1978. Another notable selected bibliography entitled Rural Crime and Criminal Justice is scheduled for publication and release in late summer 1980 by the Law Enforcement Assistance Administration, Washington, D.C. Single copies will be available from the National Criminal Justice Reference Service, P. O. Box 6000, Rockville, Maryland 20850.

2. The rural crime and justice literature reveals an occasional study which has focused on a particular geographic setting. Taken together they represent only a patchwork data base at best, but they convincingly illustrate the great diversity of rural areas demographically, economically and attitudinally. These studies often provide some useful insights into factors which distinguish or uniquely influence rural crime patterns or shape the rural criminal justice system. The state of Ohio, in particular, has been a favorite laboratory location.

William J. Gorse and Nancy J. Beran, The Community Criminal Justice System of Lincoln, Ohio State University, Program for the Study of Crime and Delinquency, 1973, identify the uniqueness of rural crime and criminal justice systems and examine the implications for rural crime policies and programs. In noting that our national crime control efforts of late have concentrated on increased sophistication in technology and investigation and on increased professionalization, the authors questioned the relevance and wisdom of this strategy in the rural setting. They also questioned whether these responses are able to take into account the many unique features of rural life which influence the rural criminal justice system and are worthy of preservation. Interestingly, these are the very concerns which have prompted contemporary rural justice advocates to urge separate examination of and initiatives for rural areas by national and state policy makers and planners.

Ohio State University's Professor G. Howard Phillips is one of the best known contemporary scholars of rural crime and delinquency. Under his direction, a series of illuminating crime surveys and victimization studies of rural Ohio communities and countryside areas have been conducted. Professor Phillips now heads the National Rural Crime Prevention Center, Ohio State University, 2120 Fyffe Road, Columbus, Ohio 43210. He has directed the following studies:

Rural Crime in Ohio as Perceived by Members of Farm Bureau Councils (1974)
Crime in Rural Ohio - Final Report (1975)
Vandals and Vandalism in Rural Ohio (1976)
Environment Factors in Rural Crime (1976)
Rural Crimes and Rural Offenders (1977)

The Center is currently designing and promoting community crime and delinquency prevention programs specially tailored for the small town setting.

The 1975 doctoral dissertation of S.W. Yang was entitled "Ecological Analysis of Crime in Rural Ohio," University Microfilms, 300 North Zeeb Road,

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Ann Arbor, MI 48106. In showing rural crime to be a product of multiple factors (e.g., finance, demographic structure, unemployment rate, family instability), Yang found no single factor to have a disproportionate influence on crime tendencies. Positive correlations were found between the crime rate and marital instability, crime prevention efforts, and community satisfaction levels, and negative correlations were found between the crime rate and the degree of population change and levels of education and poverty.

Further adding to the Ohio knowledge base was the 1977 doctoral dissertation of G.M. Kreps, "Study of Crime in Rural Ohio--The Relationship Between Ecological Factors and a Rural Crime Index," University Microfilms, 300 North Zeeb Road, Ann Arbor, MI 48106. Kreps examined the "defensible space" concept in a rural setting to determine its usefulness in predicting certain aspects of causes of rural crime and as a means of reducing crime by the identification of factors thought to be causally related to a lower crime rate.

John Useem and Marie Waldner, in "Patterns of Crime in a Rural South Dakota County," Rural Sociology, Vol. 7, No. 2, pp. 175-185, 1942, examined patterns of rural crime in terms of the rural social setting. Differential influences of towns and farms upon criminal behavior, the impact of ethnic groupings, the relationship of marital status to criminality, the rule of age, and the link between community life and crime were all examined. Not surprisingly in view of more recent research, their conclusion was that criminal tendencies in rural South Dakota are largely a product of the clash between ascribed roles or norms of conduct and the inability of certain population segments to live up to their roles. However, perhaps the most noteworthy observation was: "Crime in a rural society requires analysis in the context of rural life rather than merely through comparison with urban patterns."

Some observers have taken the view that rural offenders have different attitudes about the law and how they view themselves as offenders. H.M. Nelson and R.E. Tish examined this subject in "Locality, Property Offenders, and Attitudes Toward Law," Rural Sociology, Vol. 36, No. 2 (June 1971) pp. 196-202, by studying Kentucky property offenders from rural and urban backgrounds. They predicted that white males from rural backgrounds would be more positive about the law and the prediction was generally found to be true only for those offenders who had not previously served a criminal sentence. Age was found to inversely relate to the anti-law attitudes, though insignificantly.

3. Reflecting the tenor of the times, interest is emerging in women and rural crime, both as victims and as offenders. The former topic is treated elsewhere in this compilation but on the subject of female offenders, Darrell J. Steffensmeier and Charlene Jordan, "Changing Patterns of Female Crime in Rural America, 1962-75," Rural Sociology, Vol. 43, No. 1 (Spring 1978) pp. 87-102, deserves mention. Upon examining rural and urban trends in the arrest of women and the effect of the women's movement on female crime, they conclude that violent and property crime levels of rural females are rising, the latter at a faster pace than male levels. No significant independent influence on their patterns was found attributable to the appearance of the women's movement in the 1960s.

CHAPTER II

RURAL VICTIMIZATION IN A SOUTHERN STATE

by James B. Moore
and
Raymond H. C. Teske, Jr.

Even before the turbulent 60's turned our attention toward the plight of America's cities, the study of crime in the United States focused primarily on metropolitan areas. Although the past decade has produced a tremendous population growth in rural areas (Time, 1976) and has seen rural crime rates closing the gap on urban rates (Kreps, 1977; Uniform Crime Reports [UCR], 1979), there has been little investigation of rural victimization and the perception of rural residents toward crime and their criminal justice system. The result has been that "rural America, lacking its own data base, often gets urban solutions for rural problems" (Cronk [ed.], 1977).

In response to these conditions, the Survey Research Program at Sam Houston State University implemented a statewide victimization survey of rural Texas residents in the spring of 1979. The study was designed to investigate the nature of rural victimization and the perspectives of rural residents toward crime. At the same time, a statewide survey of all Texas residents (hereafter identified as the statewide survey) was implemented. Although the two surveys were independent because the rural survey centered on victimization while the statewide survey focused on attitudes and perceptions, the use of many identical questions, along with similar sampling procedures and time frames, made a number of comparisons possible.

Subjects for both the rural and statewide surveys were sampled from the Department of Public Safety's driver's license list which contained the names of approximately 95 percent of Texas residents over the age of seventeen. The statewide sample of 2,000 Texans was randomly selected by taking every nth name from the list while the rural sample of 3,003 Texans was selected through a multistage stratified sampling process (Moore, 1979). Rural Texans were defined as persons residing in a non-SMSA (Standard Metropolitan Statistical Area) and served by a post office in a community of less than 2,500 persons. Through a multistage follow-up process, a total of 2,272 (75.6 percent) usable rural survey instruments were returned, while the same process yielded 1,530 (76.5 percent) usable statewide survey instruments. Statistically, both samples fell within the parameters of their respective age, sex, and racial compositions in the Texas population. Both survey instruments were sent in English and Spanish to subjects with Spanish surnames.

Crime Experiences

An area of central interest in the rural survey was to obtain a more accurate estimate of both reported and unreported crime (as compared to UCR estimates which appear to underestimate crime [President's Commission, 1967]), based on the victim's perspective. Consequently, rural survey respondents were asked about their experiences as victims of eight selected crimes during the period from April 1978 to April 1979, with Easter Sunday used as a reference point. A full nineteen percent of the respondents affirmed they were the victim of at least one of the eight crime types listed in the survey instrument. Furthermore, these 431 victims accounted for 669 distinct victimizations. Of the total number of victims, 397 respondents, or 17.5 percent of the recovered sample, were property crime victims (burglary, vehicle theft, larceny theft, vandalism, and arson), while only eighty-five respondents, or 3.7 percent of the sample, were the victims of crimes against persons (robbery, assault with weapon and assault with body).

While over half of all the victimizations revealed by rural respondents involved either larceny theft (34.9 percent) or vandalism (30.0 percent), it is noteworthy that these two crime types were also the most frequent victimizations in the Phillips et al. (1976) study of rural Ohio. The remaining victimizations recorded in the rural Texas survey were burglary (11.6 percent), assault with body (10.7 percent), vehicle theft (4.9 percent), assault with weapon (3.4 percent), arson (2.8 percent), and robbery (1.3 percent).

In terms of the nature of rural crime, survey results revealed that many rural victims (34.5 percent) were attacked or robbed in their home (20 percent) or on their property (14.5 percent). However these locations were closely followed by commercial establishments (17.2 percent), a street away from home (14.2 percent) and school (11.7 percent). The most frequent locations at which victims said a burglary or theft took place were in their vehicle (28.0 percent) or a location not on the respondent's property (22.4 percent). Otherwise, property victimizations occurred in the home (17.2 percent), in buildings on the respondent's property (12.0 percent) or other places on a respondent's property (20.4 percent).

Victims of vehicle and larceny theft were also asked about the type of property lost. Unexpectedly, the most frequent vehicles stolen from rural victims were tractors (30.7 percent), pickup trucks (15.3 percent), or other farm vehicles (10.2 percent), rather than cars (25.6 percent) or motorcycles (7.6 percent). Furthermore, the majority of larceny theft involved farm equipment (26.1 percent), raw materials (18.2 percent) or livestock (7.9 percent). These results were striking because only 10.1 percent of the rural sample reported being full- or part-time ranchers or farmers.

One of the primary explanations offered for the disparity between official crime rates (UCR) and crime rates obtained in victimology surveys is the occurrence of unreported crime. In order to investigate this phenomenon in a rural population, victims were asked whether they reported their victimization to a law enforcement agency. Survey results showed the majority of victimizations across all crime categories were "always" reported (53 percent), while eleven percent were reported "sometimes," and thirty-six percent "never" reported. However, there was great disparity in reporting between the specific offense categories. Vehicle theft (83.3 percent), robbery (71.4 percent), assault with weapon (66.7 percent), and arson (65.0 percent) were most typically "always" reported. Victims were less likely to have "always" reported vandalism (53.4 percent), larceny theft (49.3 percent), or assault with body (33.3 percent). As in the national victimology surveys (National Crime Survey), the two most frequent reasons given by the rural respondents for not reporting a crime were that it was "useless to report, nothing would be done" (36.7 percent) or the crime was "not important enough" (29.5 percent).

In an attempt to further explore the reasons for not reporting a crime, a number of victim characteristics and attitudes as measured in the rural survey were submitted to a stepwise regression analysis and regressed on crime reporting (Moore, 1979). While vehicle theft was almost always reported regardless of conditions, a victim's perception of the efficiency of the sheriff's department and the extent to which property loss was covered by insurance accounted for a significant percent of the variance in reporting or not reporting burglary ($R^2=.293$) or larceny theft ($R^2=.109$). Furthermore, a victim's perception of the sheriff's department alone accounted for over half of the variance ($R^2=.583$) in reporting an assault with a weapon. Reporting an assault with body appeared partially influenced by the number of persons in the victim's household ($R^2=.229$), while the victim's place of residence appeared to impact the reporting of arson ($R^2=.362$).

Perceptions of Crime

An area of significant concern for policymakers, criminal justice personnel or anyone faced with understanding and responding to crime, is citizens' perceptions of crime. The way individuals perceive the crime problem has considerable impact on the precautions they take and the demands they make on the criminal justice system. In order to assess these perceptions, both rural and statewide residents were asked about their fear of crime and their views on the nature of crime in the area in which they lived.

One of the most revealing questions asked concerned the citizens' apprehension of crime. Respondents were asked whether they felt they might be the victim of a crime during the next year. [Eight types of crime were listed in the survey instrument: rape, robbery, assault with body, assault with weapon, burglary, theft, vehicle theft and vandalism. Space was also provided for respondents to write in other types of crimes.] While over one-half (56 percent) of the statewide survey respondents felt they would be a victim, only about one-third (36 percent) of the rural survey respondents felt this way. The overall difference between these two groups was statistically significant ($X^2=35.5$; df=7; $p<.001$). However the focus of this significant difference appeared to be on property crimes ($X^2=29.05$; df=3; $p<.001$) rather than person crimes ($X^2=3.88$; df=3; $p>.05$). Respondents to the statewide sample were three times more likely than the rural sample respondents to think they would be a victim of property crime. At the same time, rural respondents showed the greatest apprehension in becoming the victim of burglary, theft, or vandalism (11 percent each).

Both rural and statewide survey respondents were also asked if they were afraid to be alone in their homes at night. Although over one-half of the rural respondents (55 percent) said they were never afraid and approximately one-third (35 percent) said they were afraid only sometimes, these responses were not significantly different from those of the statewide survey ($X^2=9.44$; df=3; $p>.05$). Two other questions, designed specifically for the rural survey, continued to examine respondents' fear of crime by asking how safe they felt being out alone in their community during the day and at night. As before, the majority of rural respondents said they felt very safe (28 percent) or reasonably safe (57 percent) at night, while almost all said they felt very safe (62 percent) or reasonably safe (34 percent) during the day.

Apart from assessing the respondents' personal apprehension of victimization, both the rural and statewide surveys examined residents' perceptions concerning the extent and nature of crime in their area. Each survey group was asked whether they felt the crime problem in their community, over the past three years, had been getting better, stayed the same, or had worsened. Not surprisingly, the rural and statewide respondents differed significantly ($X^2=132.87$; df=2; $p<.001$) in their views. Over one-half of the rural respondents (53 percent) said that the crime problem was about the same, eight percent said getting better, and only thirty-six percent said it was getting worse. On the other hand, over one-half of the statewide respondents (55 percent) said that the crime problem in their community was getting worse with the minority saying it was about the same (38 percent) or getting better (5 percent). The rural survey also asked those respondents who felt the crime problem had been getting worse to cite the reasons they thought this was occurring. The three major reasons cited by rural residents were: (1) laxity of courts and law enforcement (24 percent); (2) use of drugs and narcotics (24 percent); and (3) breakdown of family life and parental discipline (23 percent). In addition, a meaningful number of rural respondents also cited moral decay (14 percent) and too much leisure time (14 percent). Interestingly, few of the quantifiable factors such as population increase (9 percent), increased population mobility (6 percent), or the economy (6 percent) were chosen by the rural sample.

Finally, rural residents were asked what they thought was the biggest single crime problem in their community. As expected, respondents most frequently cited theft or burglary (26 percent), followed by vandalism (16 percent), and drugs or narcotics (15 percent). Somewhat unexpectedly, however, rural residents felt drunk driving (10 percent) and especially speeding or traffic violations (18 percent) were serious problems in rural areas, while less than one percent cited robbery or assault.

Citizens' Response to Crime

A third area of investigation for both the rural and statewide surveys involved actual responses of Texas residents to the threat of crime. A question designed to assess this area asked respondents to identify the types of devices they had placed in their home for security reasons. Eight specific devices were listed. As was expected, respondents to the statewide survey were more likely to have at least one security device (76 percent) than were rural respondents (68 percent). Furthermore, the overall difference between these two survey groups across the eight security device categories was significant ($X^2=206.65$; df=8; $p<.001$). The primary difference was a greater likelihood for statewide respondents to have door bolts (36 percent to 18 percent), extra door locks (33 percent to 16 percent), and window guards (19 percent to 5 percent) than for rural respondents. Approximately one-third of the respondents to both surveys indicated they had guns for security reasons. Statewide respondents were also more likely to have outside security lights (33 percent) than were rural respondents (28 percent). Other types of security devices listed were burglar alarms, police I.D. stickers and guard dogs.

Along these same lines, both statewide and rural respondents were asked why they kept a gun at home if in fact they owned a firearm. Approximately the same proportion of rural respondents (25 percent) as statewide respondents (21 percent) reported keeping a gun for sporting purposes. However a noticeably higher proportion of statewide respondents (16 percent) than rural respondents (9 percent) said they kept a gun only for protection. The highest proportion of gun owners in both the rural (47 percent) and statewide (38 percent) samples kept a gun for both sporting purposes and protection. Interestingly, when both samples were asked if they were in favor of registering a number of different types of guns, statewide respondents (44 percent) were significantly more in favor of registering all guns (X^2=50.08; df=6; p<.001) than were rural respondents (31 percent).

A final set of questions in this area was specific to the rural survey and involved securing personal property. Specifically, rural respondents were asked if they locked their homes before leaving. The majority (61 percent) said they "always" locked their homes, whereas twenty-nine percent said "sometimes" and only nine percent said "never." When asked whether they kept their property locked up (such as buildings, equipment, cars), respondents were less likely to "always" lock up property (43 percent) than they were to "sometimes" leave it unlocked (40 percent) or "never" lock it at all (16 percent).

Perceptions of the Criminal Justice System

A final area assessed in both the rural and statewide surveys concerned attitudes toward components of the criminal justice system. Respondents were asked how they viewed the courts' performance in dealing with convicted criminals. While the majority of both rural (77 percent) and statewide respondents (71 percent) said the courts were "too easy" on convicted criminals, an analysis of all possible answers to this question showed the rural sample to be significantly more critical of the courts (X^2=26.6; df=2; p < .001) than the statewide sample. Specifically, seventeen percent of the rural respondents and twenty-two percent of the statewide respondents felt the courts were "doing a good job," while only one percent of the rural and two percent of the statewide respondents said the courts were "too harsh."

Both survey groups were also asked about their perception of the function of prisons. A greater proportion of statewide respondents indicated that rehabilitation is "very important" (89 percent) than did rural respondents (74 percent). At the same time, only three percent of the rural respondents and two percent of the statewide respondents indicated that rehabilitation was "not important." Rural respondents were somewhat more likely to perceive punishment as a "very important" function (77 percent) than were statewide respondents (70 percent), but the difference between those who perceived it as "not important" was minimal (rural, one percent; statewide, four percent). Approximately three-fourths (77 percent) of both sets of respondents indicated that deterrence is "very important." However, only about one-half (57 percent) of the rural and 43 percent of the statewide respondents said that incarceration is "very important." The overall difference between the rural and statewide respondents concerning their perception of the functions of prison was statistically significant (X^2=36.61; df=3; p<.001).

Finally, the rural sample was asked their opinion concerning the effectiveness of their law enforcement agencies. The majority of rural respondents viewed the highway patrol as "effective" (46 percent) or "moderately effective"

(43 percent). Of those respondents who said they were served by a municipal police department, 28 percent felt the police were "effective," 22 percent said their performance was "poor," and the remaining 50 percent felt they were "moderately effective." Likewise, thirty-one percent of those respondents who were served by a sheriff's department felt the department was "effective," while forty-seven percent felt they were "moderately effective" and twenty-two percent said the performance was "poor."

Summary and Conclusions

In reviewing the victimization data obtained from the rural survey, a number of general observations may be tentatively drawn. While almost a fifth of the rural residents sampled were victims of crime, the majority suffered property victimization, most of which involved larceny theft and vandalism. Although over one-half of this property crime occurred away from home, particularly in vehicles, about one-third of the victimizations against persons occurred at the victim's place of residence. It is noteworthy that the majority of both vehicle thefts and larceny thefts involved farm-related vehicles, equipment, or materials, although only about ten percent of the sample said they were full- or part-time farmers or ranchers.

Only about one-half of rural crimes in Texas appear to be reported to any law enforcement agency. However, this varies considerably in terms of the type of victimization, with crimes like vehicle theft almost always reported and assault with body infrequently reported. The observation that rural victims most typically failed to report a crime because it was "useless to report, nothing will be done" or because it was "not important enough" may in reality be more a function of their perception of the effectiveness of the sheriff's department, as well as the extent of insurance coverage.

Survey results concerning perceptions of crime suggest that rural residents have relatively little fear of becoming a victim, particularly when compared to the apprehension expressed by statewide respondents. Rural residents apparently feel safe and secure in either their home or in their community regardless of the time of day. While a majority of rural residents do not share the pessimistic outlook on crime expressed by statewide respondents, rural respondents tend to explain any worsening of the crime problem in terms of decaying social values or lack of discipline at home, or in the criminal justice system. Finally, rural residents appear to see their crime problem as centering on property theft, drugs and traffic. Quite notably, they show little concern for crimes against persons.

Apparently the lack of apprehension rural residents feel toward crime is reflected in the more moderate precautions they take as compared to statewide residents. Rural residents employ fewer security devices in their homes and on their property, and are less likely than statewide residents to keep a gun for the sole purpose of protection. Although the majority of rural residents always lock their home before leaving, they are more likely to leave their property such as equipment, cars, and so forth, unlocked. It is interesting to speculate whether this may be a reason why so much rural theft takes place in vehicles or other locations away from home.

Finally, rural residents displayed a conservative attitude toward the criminal justice process. Most respondents felt that the courts are too easy on criminals. They are also less likely than statewide residents to view rehabilitation as a very important function of prison. Rural residents appear to view the state highway patrol as more effective than either municipal police departments or the sheriff's office, although their view of the sheriff's department is most likely to impact their decision to report a crime.

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Editors' Notes

1. While the Moore and Teske studies did turn up some unexpected results, the findings taken as a whole confirm at least the suspicions of most rural justice commentators and a few scattered earlier rural victimization studies as well. Moore notes, for example, the works of Ohio State University Professor G.H. Phillips. Two other rural studies are also worthy of note.

N.J. Beran, in "Criminal Victimization in Small Town USA," International Journal of Criminology and Penology, 1974, 2, reported on a five-year study of official statistics, household and business victimization studies and studies on citizens' perceptions of crime and criminal justice administration issues and prevailing social problems in small and large communities. The crime problem was revealed largely as nonindex and property in nature and there was a high percentage (42 and 44 percent) of unreported crime. Citizens were generally knowledgeable as to what their major crimes really were. Interestingly, while the citizens strongly supported constitutional rights, they simultaneously advocated a "get tough/law and order" response to their crime problem.

A publication by J.J. Gibbs, Crime Against Persons in Urban, Suburban, and Rural Areas--A Comparative Analysis of Victimization, (1979) was recently prepared for LEAA's National Criminal Justice Information and Statistics Service (Accession No. 09900.00.053551). While Gibbs' conclusions parallel those of earlier works, he notes that personal characteristics have more influence on victimization rates in rural areas than in urban or suburban areas. He also notes the difference between male and female rates is higher in rural areas than in suburban or urban areas. [See editors' note #3 following Warner paper, supra.]

2. Evidence of the changing face of rural America in recent years is quite apparent. Population shifts from cities to rural areas for the past several years and the flight of urban manufacturing and industrial firms from the cities to those areas as well, particularly in the South and Southwest, have been readily observed. Noting the increase in rural crime rates during this same time, some relationship between these trends might naturally be presumed. However Moore and Teske found that the majority of Texas respondents perceived no significant change in their crime problem over the past three years, perhaps suggesting some reluctance of rural Americans to face and come to grips with their increasing crime problem. In any event, the existence of such a paradox would have great impact for rural criminal justice initiatives and deserves closer examination.

3. One aspect of the contemporary rural crime problem that has received a significant share of national attention has been the increased theft of agricultural machinery and livestock. The figures of Moore and Teske confirm both the incidence of such theft and the perception of rural people as to the dimension of this particular crime problem. However, remembering Warner's admonition that the problems of the rural countryside are not the same as those of small towns and cities, the temptation to view rural crime problems as farm or agriculturally oriented must be resisted. Indeed, while it is true that crime on the farm has received considerable attention of late, it is also true that each passing year sees the disappearance of more and more farm families and farm units.

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PART II

THE RURAL CRIMINAL JUSTICE SYSTEM

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Introduction to Part II

Part II of this compilation is organized into separate sections which reflect the primary components of any criminal justice system: law enforcement, courts and the legal process, jails and corrections. While this organization should facilitate directing the reader's attention to those portions of the compilation which might be of particular interest, it is important to remember that realistically the rural criminal justice system is not at all so simplistically compartmentalized. In fact, recognition of this very fact is one of the themes running throughout the following material.

While the following presentations for the most part focus on only one component, several works of recent vintage examining the rural criminal justice system as a whole are worthy of mention. Recognition of the following particular items in no way reflects a judgment that they constitute the most important works on this subject or that they represent the entire body of available literature. They were selected primarily because of their particular relevance to the presentations which comprise the balance of this publication and because they draw attention to the linkages and relationships of all of the components of the rural criminal justice system.

Michael Ginsberg's, Rural Criminal Justice: An Overview, American Journal of Criminal Law, Vol. 3, No. 1, pp. 35-51, 1974, represents one of the best efforts to concisely yet comprehensively provide such a glimpse with emphasis on rural law enforcement, courts, prosecutors and defending attorneys, and needed improvements in the system as a whole. Based on his first-hand experiences and familiarity with small towns in Texas and Colorado, it is his observation that much of the evolution of rural criminal justice is directly attributable to two characteristics of the rural or small town setting: (1) a less rapid pace of life than is found in the city, the implications of which are many, and (2) lack of confidentiality and anonymity--there really are no secrets. Indeed, the consequences of these characteristics are the subject of much of the material that follows, particularly Professor Eisenstein's presentation on the rural legal process.

Also published in 1974 was D.W. Neubauer's Criminal Justice In Middle America, General Learning Corporation, 250 James Street, Morristown, New Jersey, 07960. Neubauer takes the reader through a small town justice system focusing on the interrelation of justice and politics, and on the various practitioners who work within the system--police, attorneys, judges. Plea bargaining in a rural setting is of particular interest to him, as are jury selection and deliberations. He also attempts to identify and analyze the standards and their sources, and motives of the major decision makers throughout the system.

Rounding out the list are the following:

Beran, Nancy J., Robert L. Pilgrim & Simon Dinitz, "Crime and Criminal Justice in Small Town USA," appearing in Politics, Crime, and the International Scene, Freda Adler and Gerhard O.W. Mueller (eds.) 1972;

H. Wayne Johnson, "Crime, Delinquency and Criminal Justice Services in Rural America," Human Services in the Rural Environment, University of Wisconsin, Vol. 3, No. 4, pp. 1-5, April 1978;

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Cronk, S.D., *Beginning Assessment of the Justice System in Rural Areas*, National Rural Center, 1828 L Street, N.W., Washington, DC 20036; and

Robert Lewis Pilgrim, *Crime and Justice in a Small City*, Ohio State University, Ph.D. dissertation, 1970.

PART II

Section I. LAW ENFORCEMENT

Introduction to Section I

Several themes which transcend discussion of particular problems, needs or issues emerge from the outset in any examination of the literature on the rural criminal justice system. While not confined only to the rural law enforcement component, they perhaps are more apparent in that connection and thus deserve mention at this point.

Particularly apparent and of greatest concern to most commentators is a general and widespread lack of awareness and knowledge of what 1980 rural America is really like. Contemporary notions too often reflect a much romanticized and mythologized rural America that perhaps used to exist, but certainly is no more. We simply have not been educated about the tremendous changes taking place in rural areas of late because of trends such as migration back to the small towns and countryside, the ever-changing structure of American agriculture and the flight of manufacturing from the city to the country, to name a few.

Next is the observation that rural problems continue to be ignored or overlooked by those policymakers who control the resources needed to bring about change and improvement. This view holds that the reason for this inattention to be twofold. First, the problems and needs of rural America, so easily obscured in the present-day political process, simply go unattended. Secondly, those initiatives begun are too often ineffectual because they reflect a largely urban perspective, urban responses, and a lack of any awareness of the extent to which rural problems are unique.

A third commonly recurring theme seems to be that success in improving the law enforcement function, and indeed the rural criminal justice system as a whole, will depend on greater community involvement. This view is premised on the belief that we have long failed to realize that crime is a community problem with economic and social dimensions. To be dealt with effectively, our troubled youth and habitual alcoholics must no longer be viewed only as "problems" for the county sheriff. And so contemporary criminal justice planners and programmers are urged to concentrate on and promote "community crime prevention" initiatives. Each of these themes is readily discernible in the material that follows.

Steve Ward, in his presentation which leads this section on law enforcement, aptly demonstrates some of the popular misconceptions of the rural law enforcement environment and its people, and the retarding influence of their perpetuation. He is an eloquent spokesperson for the view that until we make a realistic appraisal of the nature of today's rural crime and law enforcement problems, we will continue to fail to recognize how substantial they have become and give them the level of attention they deserve.

The county sheriff has been and remains the pivotal rural law enforcement official. Because he is an elected official, he occupies a particularly unique position in the rural criminal justice system. Roger Handberg and Charles Unkovic of the University of Central Florida have conducted some of the most revealing studies of rural sheriffs in recent years; they recount some of their observations in the second presentation in this section with particular emphasis on changes in rural law enforcement. Their treatment of the personal characteristics of rural sheriffs, their varying perceptions of the

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rural criminal justice system and its effectiveness, and their attitudes toward broader law enforcement issues they encounter daily in their communities, will be informative and interesting.

Evidence that the provocation of rural criminal justice advocates in recent years has not fallen on totally deaf ears is presented in the third law enforcement presentation. James Vetter was an LEAA program director in 1975 and administered a multi-site demonstration effort known as the "Resident Deputy-Resident Trooper Program." Despite the success of the demonstration, its continuation and expansion fell victim to financial cutbacks at LEAA. However Vetter draws on the experience and results of the demonstration to suggest one promising rural criminal justice system improvement initiative with nationwide implications. The success and insights resulting from this demonstration project would seem to be considerable--certainly deserving of further examination. For rural justice advocates, it was no doubt equally significant as a short-lived sensitivity and commitment to rural criminal justice problems by national policymakers which has since been abandoned.

Perhaps no single crime problem today better supports the conventional wisdom of criminal justice reformers that the community must become more involved in the system than spousal abuse. This is no less true in rural America than elsewhere and, in the final law enforcement presentation, David Yoder offers a look at the realities and obstacles in dealing with this problem in the small town setting. It is true that spouse abuse can be viewed just as accurately as a social problem or a crime problem, but no matter what label we attach, the fact remains that in most rural areas the problem is dealt with primarily by the law enforcement agency. Thus, we are fortunate to have a comprehensive glimpse of Michigan's highly regarded statewide rural initiative and its early experiences.

CHAPTER III

RURAL CRIME AND LAW ENFORCEMENT: A PERSPECTIVE

by Steven M. Ward

> *"Every podunk police chief from every hick town in the U.S. is running around trying to act like J. Edgar Hoover."*

This comment, overheard in a metropolitan Los Angeles restaurant near the site of the 1977 Conference of the International Association of Chiefs of Police, typifies the perception many Americans hold of rural or small town law enforcement. The popular view derives primarily from two sources: the entertainment media or the cop who did something in every person's past to ensure a place in his memory.

The small town police officer or sheriff is regularly portrayed by the entertainment media in one of three quite different but equally inaccurate fashions. The first is the heart-of-gold, low profile officer who solves everyone's problems with a bit of folksy wisdom and a few laughs. Andy Griffith's television sheriff originated this characterization more than 15 years ago; its apparent popularity is attested to by the widespread syndication of those early shows even today. A recent television season found the show "Carter Country" carrying on the tradition although with an upbeat pace and updated problems to solve.

A second common portrayal of the rural law enforcement officer finds him rushing from crime to crime, confronting murder, mayhem and robbery. The television series "Cade's Country" tried this approach a few seasons ago. It was also the theme of the highly popular "Walking Tall" films.

The final image frequently offered to the entertainment-seeking public is of the always inept, usually corrupt and inevitably corpulent small town cop who must be rescued or punished by a "supercop" from the big city as in the film "In the Heat of the Night" or any of a dozen television movies.

The impact of these popular views of rural law enforcement is difficult to measure. In fact, one might reasonably ask whether popular perceptions make any difference. Law enforcement services of varying kinds are being provided at varying levels to rural people regardless of what the movies or television say. This should be the proper focus of any attempt to understand problems and issues of rural law enforcement.

Unfortunately the popular perceptions are important because there is some evidence to suggest that they influence decisions made about the law enforcement needs of rural communities. There is an information vacuum surrounding decision makers reflected in the dearth of literature describing the realities of rural law enforcement. There are some studies about rural crime but virtually none about the people who are called upon to deal with it. A review of criminology textbooks and journals covering the past twenty years yields only a handful of references, the most recent being a study of police officers in nonmetropolitan Missouri communities.

Even the studies focusing on crime are limited to relatively confined areas or time frames, severely restricting their value. One research effort mounted by the Rural Crime and Justice Institute at St. John's University in Minnesota yielded the following comments:

> New Hampshire, for example, wrote, '...we cannot provide a specific statistical breakdown of crime in the rural areas. It has not reached alarming proportions compared to the cities.' And the South Carolina Office of Criminal Justice Programs replied, 'We have no statistical breakdown of crime in rural areas or the types of programming in operation to meet rural criminal justice needs at this time.'[1]

Both advantages and disadvantages arise from the lack of precise data about rural crime and law enforcement. The most obvious advantage is the freedom to construct one's own arguments about problems and solutions with little fear of being refuted by the "facts." Conversely, the primary disadvantage is that intuitive arguments, unsubstantiated by adequate levels of statistical data, are seldom persuasive to today's key decision makers.

This paper, subject as it is to the limitations imposed by the lack of empirical data, exemplifies this dilemma. While relevant studies are cited where appropriate, the majority of the following discussion including conclusions, arises from the writer's personal experiences in working with more than 500 rural law enforcement practitioners from forty-eight states during the past four years. It is highly subjective and is offered in the hope that it will raise issues, suggest some possible interpretations and contribute to a discussion of this long-neglected problem area.

Rural Crime

At the outset it is important to note that the very concept of "rural" contributes to the difficulties encountered in examining rural crime problems. Depending on which definition one uses, the number of rural residents in the United States ranges from about twenty-six percent of the population to forty-two percent. In some cases, operational definitions encompass both incorporated and unincorporated territory. The Federal Bureau of Investigation's Uniform Crime Reports (UCR) which provide the most accessible and widely cited crime data, restrict the term "rural" to unincorporated territory in counties outside Standard Metropolitan Statistical Areas (SMSAs).[2] In 1975, rural law enforcement agencies reporting crime data to the FBI served approximately 22,352,000 people. Incorporated areas with populations of fewer than 10,000 residents contained an additional 16,524,000 citizens.[3] It seems appropriate to consider both categories in assessing the volume of criminal activity in rural America.

Table 1 on the following page displays crime rate data for the years 1971 through 1975 for the country as a whole and for those cities with areas outside SMSAs. The rates in all categories have been increasing more rapidly for the rural communities than for the country as a whole or for major metropolitan areas. The nineteen percent increase from 1974 to 1975 was three times that of cities of over one million population. The rate has more than doubled in the past five years.

TABLE 1

Crime Rates for Index Offenses Known to the Police By Selected Population Groups

1971-1975

Population Category	Crime Category	1971	1972	1973	1974	1975
All Agencies Reporting	Total Rate	3120.3	3027.7	4389.2	5169.9	5611.1
	Violent*	422.2	429.1	448.5	502.1	523.9
	Property†	2698.1	2598.6	3940.7	4667.8	5087.1
Cities Under 10,000 Population	Total Rate	1829.1	2067.8	3216.8	3818.2	4112.5
	Violent*	170.8	203.8	199.0	217.8	231.5
	Property†	1658.2	1864.0	3017.8	3600.5	3881.0
Rural Areas	Total Rate	1099.8	1154.3	1534.2	2011.4	2229.0
	Violent*	115.7	128.2	134.0	161.6	176.8
	Property†	984.0	1026.1	1400.2	1849.8	2052.2

Source: Uniform Crime Reports, Federal Bureau of Investigation, 1971, 1972, 1973, 1974 and 1975.

Note: Rates are per 100,000 people.

*Includes the crimes of murder, forcible rape, aggravated assault and robbery.

†Includes the crimes of burglary, larceny-theft and motor vehicle theft.

Victimization studies have established that crime is underreported. While such studies have never been conducted in rural areas, it appears safe to assume that the reasons for not reporting criminal activity would occur in rural communities as well as in their urban counterparts. Common reasons for not reporting crime, including the feeling that nothing could or would be done, fear of reprisals and belief that the occurrence was not important enough to justify further action, or a personal relationship with the suspected perpetrator, are not uniquely urban phenomena. In fact, one might reasonably argue that the very nature of the rural community and rural law enforcement stimulates underreporting. People are likely to know one another. There is an understandable reluctance to "make waves." The police are more prone to treat many offenses informally. And police reporting is often inadequate or nonexistent. Writing field reports takes time; generating cumulative information summaries takes even more time. One study of crime reporting practices in Vermont (which has a mandatory state reporting law) disclosed that fifty-eight small agencies were not complying because they did not have enough time for the required paperwork.

The available statistics tell little about the qualitative characteristics of rural crime. Turning once again to the FBI reports, Table 2 (on the following page) displays Part I crime rates for the U.S. as a whole, for nonsuburban cities with populations under 10,000 people and for nonsuburban counties with populations under 25,000 people. The steady increase in virtually all categories of major crime between 1971 and 1975 suggests that the rural area is not being ignored by criminals. Particularly startling are the increases in the property crimes of burglary and larceny. While the rural resident need not fear violent crime as much as his urban cousin, there appears to be cause for concern about his belongings. Of the violent or potentially violent crimes, robbery shows the greatest increase even in the smallest population category.

A number of factors might reasonably be deduced as contributing to the increase in reported crime in rural America. For example, there may be a combination of increased participation in the UCR program and increased accuracy in recording the incidence of crime. In fact, analysis of the numbers of agencies reporting to the FBI in the selected population categories does not reveal a significant increase in their numbers. Improved accuracy in reporting is more difficult to ascertain, but the proliferation of statewide criminal justice information networks stimulated by federal grant-in-aid funds would support such a development.

Also related to reporting frequency is the number of law enforcement officers available to observe criminal activity or to take reports from citizens. Table 5, page 58, gives some indication of the significant increase in the numbers of law enforcement personnel employed in a selection of predominantly rural states. There is a direct relationship between the number of law enforcement officers and the reported crime rate.

Beyond changes in reporting practices, one can only speculate as to the reasons underlying the apparent increase in rural crime. While offender profiles are virtually nonexistent, law enforcement officers report the encroachment of urban criminals on the rural scene, particularly in areas crossed by the interstate highway network. Professional burglars and armed robbers find isolated farms and businesses to be easy targets.

TABLE 2

Part One Crime Rates for Selected Cities and Counties 1971-1975

Population Category	Crime	1971	1972	1973	1974	1975
All Agencies Reporting	1	8.8	9.2	9.7	10.4	10.2
	2	4.1	3.9	4.8	4.5	4.3
	3	21.5	23.9	26.1	28.4	28.4
	4	208.7	201.9	203.6	235.3	245.1
	5	183.3	194.2	209.1	228.0	240.3
	6	1228.5	1202.7	1282.7	1519.4	1606.6
	7	969.1	932.4	1039.9	2647.6	2972.6
	8	500.5	463.4	477.1	500.8	507.9
Nonsuburban Cities Under 10,000 Population	1	4.1	3.7	4.6	4.4	4.3
	2	1.2	1.4	1.4	1.9	1.4
	3	7.3	8.8	9.3	9.9	1.4
	4	18.4	19.6	22.5	29.3	34.4
	5	142.6	149.5	150.6	163.1	177.8
	6	620.7	641.7	687.5	836.3	918.1
	7	583.4	646.4	781.3	2012.8	2269.8
	8	118.6	120.7	129.0	156.8	159.9
Nonsuburban Counties 10,000 to 25,000 Population	1	6.1	6.2	7.2	7.1	6.5
	2	2.1	2.3	5.4	2.4	2.5
	3	10.2	9.8	10.8	10.4	10.3
	4	12.3	12.8	14.0	16.6	16.1
	5	90.0	91.8	96.1	113.3	110.7
	6	499.0	474.0	546.1	682.3	705.9
	7	371.9	351.5	417.2	815.4	847.2
	8	54.2	52.7	72.3	71.4	70.4
Nonsuburban Counties Under 10,000 Population	1	5.6	4.7	6.7	6.0	6.9
	2	2.0	2.5	254.3	20.4	5.2
	3	10.9	8.6	10.8	10.1	10.0
	4	9.2	9.4	12.4	13.7	14.9
	5	82.7	81.9	89.7	87.1	101.2
	6	507.1	494.8	506.7	638.2	733.9
	7	403.0	396.3	426.3	745.3	908.5
	8	83.9	51.9	65.1	70.4	78.8

Source: Uniform Crime Reports, Federal Bureau of Investigation, 1971, 1972, 1973, 1974 and 1975.

Note: Rates are per 100,000 persons.

Key:

1 = Murder and nonnegligent manslaughter
2 = Manslaughter by negligence
3 = Forcible rape
4 = Robbery
5 = Aggravated assault
6 = Burglary
7 = Larceny/theft
8 = Motor vehicle theft

Tourism also contributes to the rural crime rate. Unquestionably, tourists commit some crimes and they add significantly to the service load of the rural police agency. But they also create a transient victim pool which might be their greatest liability to the rural community. Recreational vehicles loaded with the latest, most expensive amenities--many of which are left unattended at campsites while their owners are enjoying the nearby sights--are attractive targets for opportunistic thieves. Thefts from tourists are especially burdensome to local investigators because the victims usually leave within a day or two, never to be seen again.

As unlikely as it sounds at first, it is possible that traditional rural values are also contributing to the increase in crime. Lifelong rural dwellers who grew up in an era when the locked door was unheard of and when everyone knew everyone else are frequently slow to protect their property. Since most burglaries and thefts are crimes of opportunity, unprotected farmhouses and vehicles present tempting targets.

It is frequently argued that one reason for increasing crime and other social problems in all areas of the country is a breakdown in family and community controls over young people. Available data do not facilitate proving or disproving this impression. FBI figures of young people's involvement in criminal activity as reflected by arrests does suggest increasing numbers, however. Comparing 1975 arrests with those made in 1974 in unincorporated rural areas, one finds an increase of 22.9 percent in arrests of persons under 18 years of age for violent crimes and 5.8 percent for property crimes.[4]

While the fact of an arrest does not indicate guilt, it reflects somewhat the population on which the police are focusing their attention. Pursuing this thought, Tables 3 and 4 (on the following pages) display arrest rates for all age groups for selected offenses between 1971 and 1975. Since the making of an arrest requires a significant commitment of time and agency resources, it is useful to consider where these commitments are being made. Particularly noteworthy are the increases in arrest rates for non-Part I offenses of vandalism, violation of narcotics laws, driving under the influence of alcohol and drunkenness. The first three all show significant increases in the small cities and rural areas, in most cases in excess of the national rates. It appears that only the unincorporated rural areas are concentrating greater amounts of their resources on drunkenness offenses.

Vandalism and narcotics offenses typically tend to be offenses of the young. In fact, eighty-three percent of the arrests made for vandalism in 1975 were of persons under twenty-five years of age. Nearly eighty-two percent of the narcotic law arrests were concentrated in this age group, along with some twenty-seven percent of the arrests for driving under the influence.[5]

In light of the amount of law enforcement time and energy spent in dealing with young people, it is not difficult to see why officers regularly identify them as especially troublesome. One recent study of some 210 small town officers in Missouri found juvenile problems to be the second most significant difficulty in their eyes. The officers also reported that only known criminals are watched more carefully than young people in their communities.[6]

Despite the shortcomings of available data, it is safe to conclude that crime is a significant problem in rural communities. Its causes are problematical; they are unquestionably many and varied. Effective responses to these

TABLE 3

Arrest Rates for Selected Offenses
1971-1975

Population Category	Crime	1971	1972	1973	1974	1975
All Agencies Reporting	All	4446.8	4346.0	4167.2	4583.8	4455.9
	Violent*	175.8	186.5	187.3	218.7	206.7
	Property†	721.4	695.0	696.1	878.3	852.9
	Vandalism	78.4	80.9	78.1	109.1	98.1
	Narcotics	257.7	269.1	312.4	339.3	283.6
	DUI††	314.9	376.7	421.9	459.8	507.1
	Drunkenness	959.7	863.2	767.4	680.1	656.3
	Disorderly Conduct	399.5	363.1	297.8	406.0	353.0
Cities Under 10,000 Population	All	4568.7	4513.0	4133.6	4966.2	4992.8
	Violent*	95.6	98.8	111.2	133.0	124.1
	Property†	587.3	566.2	564.9	818.6	744.8
	Vandalism	103.4	103.5	104.4	158.7	145.4
	Narcotics	150.4	190.1	262.0	328.3	256.9
	DUI††	486.2	559.2	538.6	490.0	661.3
	Drunkenness	1072.8	1036.2	760.0	786.8	899.9
	Disorderly Conduct	466.0	429.8	389.3	476.3	474.5
Rural	All	2243.3	2078.8	2369.5	2757.9	3186.8
	Violent*	71.2	72.2	85.5	116.5	132.0
	Property†	298.8	285.2	334.6	408.8	430.4
	Vandalism	36.2	37.3	46.3	59.5	52.7
	Narcotics	126.8	134.5	208.2	217.7	198.6
	DUI††	272.0	295.4	385.7	391.9	570.3
	Drunkenness	368.2	336.9	289.7	375.6	513.5
	Disorderly Conduct	139.6	110.1	111.9	126.2	133.2

Source: Uniform Crime Reports, Federal Bureau of Investigation, 1971, 1972, 1973, 1974 and 1975.

Note: Rates are per 100,000 people.

*Includes the crimes of murder, forcible rape, aggravated assault and robbery.

†Includes the crimes of burglary, larceny-theft and motor vehicle theft.

††Driving under the influence of alcohol.

TABLE 4

Rural Arrests by Age

1971-1975

	Age	Category	1971	1975	Percent Change
Total			462,970	676,708	+46
	All Ages	Violent	14,645	27,995	+91
		Property	61,448	91,239	+48
		All Other	386,877	557,474	+44
	Under 18 Years	Total	88,836	108,332	+22
		Violent	1,451	2,517	+73
		Property	24,712	33,940	+37
		All Other	62,673	71,875	+15
	Over 18 Years	Total	374,134	568,376	+52
		Violent	13,194	25,478	+93
		Property	36,736	57,299	+56
		All Other	324,204	485,599	+50

Source: Uniform Crime Reports, Federal Bureau of Investigation, 1971 and 1975.

causes await further study and are beyond the scope of this paper. Responding to the acts themselves, however, are local law enforcement officers. Further consideration of law enforcement is in order here.

Rural Law Enforcement

At best estimate, there are some 25,000 law enforcement agencies in the United States. In 1975, local law enforcement agencies (counties and municipalities) employed 463,404 full-time-equivalent persons.[7] Although data on rural areas and small towns are not readily available, one is able to subtract the number of employees in the 394 largest cities and 334 largest counties from the total to obtain a ball park figure covering everywhere else. This mathematical sleight of hand reveals that there were some 175,717 full-time-equivalent employees in local law enforcement outside of metropolitan centers.

According to the FBI's 1975 figures, there were an average of 2.1 full-time law enforcement officers for each 1,000 citizens nationally. This rate is 1.9 for cities with populations under 10,000 and 1.3 for sheriffs' departments (including only those which provide law enforcement services as part of their regular operations).[8]

Table 5 (on the following page) highlights personnel increases in local law enforcement agencies in twenty-four primarily rural states. Growth between 1971 and 1975 ranges from 8.5 percent to 50.9 percent. Even more revealing is the increase in the law enforcement payroll, ranging from a low of 41.4 percent to a high of 130.7 percent. The significance of these commitments of personnel and budgetary resources is heightened by the fact that law enforcement is typically the primary or secondary budget item for most small cities and counties, sharing top honors with streets and highways.

Obviously, rates and ranges tell nothing about the actual commitment of person power and money in a given community. Nor do these figures provide any meaningful indication of the qualitative or quantitative productivity of personnel. Examination of these issues forces one to rely upon more impressionistic data.

Rural Law Enforcement Officers

The media and mental images aside, who is the "typical" rural law enforcement officer?

Once again, there is little research data available to help answer this question. The Missouri study cited earlier reported that nearly thirty-eight percent of the officers responding from communities of under 10,000 population had not completed high school. The proportion of officers with no high school diploma decreased as community size increased, reaching a low of ten percent for communities in the 25,000-50,000 range.

The mean age of the officers in the Missouri study also varied inversely with community size. Personnel in the under 5,000 category had a mean age of 44.9 years, while their counterparts in the largest agencies had a mean age of 40.7. Salaries also followed the size trend, with officers in the smallest communities earning salaries ranging from $100 to $495 per month and those in the largest salary range of $425 to $508 per month.[9]

TABLE 5

Percentage Increases in Full-Time-Equivalent Employees and Payroll Expenditures for Law Enforcement In Selected Predominantly Rural States

1971-1975

State	Increase in Full-Time Equivalent Personnel	Increase in Payroll Expenditures
Alabama	27.2	70.1
Arkansas	8.5	41.4
Idaho	34.2	67.1
Iowa	19.8	58.2
Kansas	23.1	62.7
Kentucky	34.7	88.1
Maine	22.5	67.0
Mississippi	13.9	51.4
Missouri	9.9	50.1
Montana	24.3	84.9
Nebraska	18.2	47.3
Nevada	19.1	69.8
New Mexico	31.1	77.8
North Carolina	24.3	58.3
North Dakota	10.7	51.7
Oklahoma	15.2	60.2
Oregon	57.1	130.7
South Carolina	33.8	73.7
South Dakota	23.3	71.4
Tennessee	26.5	77.3
Utah	30.8	78.8
Vermont	20.0	58.4
West Virginia	18.2	74.0
Wyoming	50.9	111.0

Source: *Trends in Expenditure and Employment Data for the Criminal Justice System 1971-1975*, U.S. Department of Justice and U.S. Department of Commerce, United States Government Printing Office: Washington, DC, 1975.

A profile of 167 first term county sheriffs, the majority of them from rural areas, discloses a mean age of just over forty-one years and 12.3 years of experience in law enforcement. Forty-nine percent were high school graduates, and sixty-eight percent had attended at least some college; eighteen percent had earned an associate of arts or bachelor's degree.[10]

Unfortunately this exhausts the readily available descriptive data on rural law enforcement officers. Personal observation suggests that there is a lowering trend in the ages of officers, perhaps influenced by the spread of minimum hiring and training standards. The availability of college level training and education programs in law enforcement and criminal justice subjects appears to be having an impact. In 1967, there were 184 institutions of higher education in the United States which offered such degree programs. In 1976, there were 664.[11] Table 6 (on the following page) shows 9,434 police officers enrolled in these colleges and universities in a selected number of predominantly rural states.

It seems safe to assume that law enforcement officers in the rural community reflect the characteristics of the majority populace. Salaries and highly localized recruiting practices restrict the applicant pool for most positions in the immediate area. Lateral movement between agencies, when it occurs, tends to be within the same state and is generally caused by salary considerations.

Rural Law Enforcement Agencies

Obviously rural law enforcement agencies are small. They usually lack the scale to provide significant differentiation of tasks among personnel. Specialists (e.g., homicide investigators, traffic accident investigators, crime prevention officers, youth officers) are seldom economically feasible. At the same time, knowledgeable staff and auxiliary service experts (e.g., statistical analysts, crime scene technicians) are also unavailable. Equipment and facilities are frequently inadequate or nonexistent. Major crimes are particularly demanding and complex service problems require borrowing the expertise of a larger neighboring department or a state agency. The alternative is to muddle through, perhaps with disastrous results.

Many agencies are too small to provide around-the-clock service seven days a week. They commonly rely on reserve or auxiliary officers (many of whom are untrained) or on a call-back system which require that a regular officer be available to respond from home to any calls for assistance.

In all honesty, the volume and seriousness of rural crime in a given area may not merit more personnel or more sophisticated equipment if measured by standards of cost-efficiency. Crime and criminals are what law enforcement officers like to think they deal with but in reality they spend most of their time providing other kinds of services. This is true in both urban and rural settings but especially in the latter.

Given this, efficiency may not be the most appropriate criterion by which to measure agency scale. Effectiveness, focusing on the extent to which the local law enforcement agency is providing a productive and acceptable level of service, would seem to be a more appropriate criterion. In one respect, money spent on law enforcement is spent on its potential. It is

TABLE 6

Number of Institutions Offering Degree Programs in Criminal Justice or Law Enforcement and Number of Law Enforcement Officers Enrolled in Selected Predominantly Rural States

1975-1976

State	Number of Institutions	Number of Officers Enrolled
Alabama	18	742
Arkansas	1	50
Idaho	3	183
Iowa	14	400
Kansas	8	218
Kentucky	7	1,115
Maine	4	255
Mississippi	7	222
Missouri	18	1,531
Montana	4	95
Nebraska	3	303
Nevada	2	144
New Mexico	3	222
North Carolina	11	861
North Dakota	1	50
Oklahoma	9	900
Oregon	12	587
South Carolina	7	342
South Dakota	3	380
Tennessee	7	606
Utah	3	15
Vermont	3	51
West Virginia	2	132
Wyoming	3	30
Total	153	9,434

Source: Law Enforcement and Criminal Justice Education Directory, Richard W. Kobetz, International Association of Chiefs of Police: Gaithersburg, Md., 1976.

invested to ensure that when police service is needed it will be forthcoming, with that measure of sensitivity, boldness or courage appropriate to the situation. Rural citizens have a right to expect--in fact, demand--the same level of preparedness as urban dwellers. The frequency with which it is actually required should be one--but not the sole--criterion for measuring its value.

It is important to avoid responding to the problem of inadequate scale by blindly consolidating local agencies or supplanting them with state-provided services. There are values of smallness which should be preserved. Rural communities must build on the strengths of small scale while correcting weaknesses.

One of the major advantages of smallness is the familiarity that officers have with the citizens they serve and with the people who staff other local criminal justice agencies. The American justice system, as frustrating as it can often be, was designed to diffuse power among multiple agencies and actors. When their number is relatively few, necessary coordination may be effected without surrendering the advantages of this power diffusion.

It is also easier to measure productivity in a small system or agency. In this era of diminishing resources and expanding competition for the tax dollar, it is critical to provide government services in a timely and accurate fashion. Individual and unit productivity are more visible in small scale operations, as is progress toward goals.

Smaller agencies tend to generate higher levels of interaction with the community. When every officer is expected to be able to handle every call from every neighborhood, a sensitivity to the true character of those neighborhoods results. The democratization effect this has should not be minimized. It is ironic that the concept of "team policing," which is being attempted by numerous urban police agencies, has as a core principle the need to get officers back in touch with the people they serve.

Maintaining a Rural Focus

Tremendous amounts of money and effort have been expended in the past twelve years to improve the delivery of criminal justice services in the United States. Much of it has gone into programs for law enforcement agencies. Some of it--albeit the mouse's share--has gone to rural agencies. There have been mixed results. Law enforcement has improved in most areas of the country, perhaps not as much as some would like and perhaps not in the areas in which others would like, but there has been improvement.

Now the federal largesse is disappearing. Future improvement efforts in the rural community will find even fewer grant-in-aid dollars available than before. It is important, therefore, to be sure that proposed changes in local operations meet criteria of effectiveness as well as efficiency, for economic conditions will continually push the latter to the forefront in decision makers' deliberations.

The urban bias of federal funding efforts as well as of researchers and programs developers has resulted in a multiplicity of big city-oriented approaches to improving the delivery of law enforcement services. On the surface, they sound appealing, drawing as they do on the latest technology and calling for the further "professionalization" of law enforcement personnel. Great care must be exercised in considering these models for transplantation, for they are frequently based on assumptions about people and problems that as yet have no parallel in the rural community.

Crime--in fact, all manner of social problems--is on the rise in rural America. Increased leisure time, higher levels of education, enhanced expectations for affluence and position, mobility and the economy are putting a strain on traditional forces of social control in small towns and in the country. James Olila, director of the Rural Crime and Justice Institute at St. John's University has noted that "there's not the community solidarity in small towns anymore." He sees small town America as more vulnerable to mischief and crime than it has been traditionally.[12]

This vulnerability is in its early stages as compared to urban centers. It is and can be only partly influenced by law enforcement practices. It seems important, then, to avoid putting the lion's share of responsibility for dealing with increased levels of deviance and crime on the local police. Rather, enhanced police performance must be viewed in the context of the community's efforts to deal with more fundamental causes.

Rural law enforcement should remain as close to the people as possible. While it may seem trite to say so, law enforcement should be a part of the social fabric of the community woven in for the strength it provides when the other threads are in danger of tearing. Unlike their urban counterparts who can only repress crime by patrol or control it by investigations and arrests, rural law enforcement practitioners still have an opportunity for prevention through the timely and sensitive provision of the full range of community-oriented services which they are capable of delivering. It is important not to respond to crime by focusing only on the acts and their aftermath.

For law enforcement to fulfill this mandate, however, agencies must have sufficient officers to provide more than just an occasional presence. They must have a sufficient resource base to answer calls for service, to mount special programs, to gather and analyze data about community problems. And, most importantly, they must have the resources to respond quickly and effectively to major crime problems when they arise. Officers must be selected for their abilities and they must be paid salaries commensurate with their responsibilities, not just the mundane but the critical as well.

The obvious problems of rural and small town law enforcement such as low population density, frequently huge geographic jurisdictions, low tax bases and lack of economy of scale must be addressed by any proposed improvement strategy. To do so in a meaningful fashion, however, requires more information on rural crime and law enforcement problems than is currently available. We must not be rushed by perceptions of problems growing out of control. Rather, we must demand with all the force we can muster that proper attention be focused on rural problems including consideration of funding and resource-sharing mechanisms that will enhance local capabilities without subverting local control.

The philosophical prescription in the preceding paragraphs is easy to write but difficult to fill. It would be easier to recommend a laundry list of standard improvements for rural and small town law enforcement agencies. Such a list could be quickly constructed and it would probably have wide applicability. Costs could be determined and funding alternatives suggested and explored. The result, however, would likely be unacceptable if there was no unifying theme to link specific changes to those characteristics of rural culture which make it unique and desirable.

NOTES

[1] James H. Olila, Victor J. Klimoski, and James F. Krile, Challenging the Myths of Rural Criminal Justice (St. Cloud, Minn.: St. John's University, 1975), p.1.

[2] Clarence M. Kelley, Crime in the United States 1975, (Washington, D.C.: United States Government Printing Office, 1975), p. 4.

[3] Ibid., p. 161.

[4] Ibid., p. 212.

[5] Ibid., p. 215.

[6] John F. Galliher, L. Patrick Donavan, and David L. Adams, "Small-town Police: Trouble, Tasks, and Publics," Journal of Police Science and Administration, International Association of Chiefs of Police 3 (March 1975): 22, 24.

[7] U.S. Department of Justice/U.S. Department of Commerce, Expenditure and Employment Data for the Criminal Justice System 1975 (Washington, D.C.: United States Government Printing Office, 1975), p. 46.

[8] Kelley, Crime in the United States, p. 221.

[9] Galliher, "Small Town Police," p. 21.

[10] Unpublished profile of participants in the National Sheriffs' Institute's Classes 9 through 13, 1976, University of Southern California: Los Angeles, California.

[11] Richard W. Kobetz, Law Enforcement and Criminal Justice Education Directory 1975-76 (Gaithersburg, Md: International Association of Chiefs of Police, 1976), p. 3.

[12] "TV, highways, and leisure factors in rising crime," Farmland News, January 31, 1975, (volume and page unknown).

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Editors' Notes

1. As Ward so effectively points out, one of the major obstacles to bettering rural law enforcement across the county is the continued tendency of policymakers, the media and public alike, to romanticize and otherwise perpetuate misconceptions about the rural law enforcement scene, indeed modern-day rural life altogether. Any attempt to accurately and realistically appraise rural law enforcement people, problems, and needs should begin with Galliher, J.F., "Small-Town Police--Trouble, Tasks and Publics," Journal of Police Science and Administration, Vol. 3, No. 1 (March, 1975) pp. 19-28. Galliher focuses on the officers' perceptions of their most critical community problems, citizen demands for service, tasks or services performed, and sources of citizen support and opposition. He notes the smaller community officer's preoccupation with traffic control and youth, and the greater attention to handling family disturbances, watching known criminals, and overcoming difficulties in communicating with the public as the towns become larger. See also:

Pratt, George P., "Law Enforcement at the Grass Roots Level," The Police Chief, Vol. 44, No. 5 (May 1977) p. 34; and Donovan, L.P., "Municipal Police--A Rural and Urban Comparison," University Microfilms, 300 North Zeeb Road, Ann Arbor, MI 48106 (1971). Donovan's study of expectations were that urban police would tend to be better educated, come from higher social class families, be more bureaucratically organized, have a greater career commitment and be more professionally oriented toward their work than would rural police. However, his findings could offer only limited support to these expectations; and

Wisdom, Gayle Ann and Bennett, Jewett Wagoner, "The Rural Peace Officer," The Police Chief, Vol. 46, No. 3 (March 1979) p. 36-37. Undeniably, some of the most frequently encountered and difficult problems which rural peace officers are asked to respond to involve crisis intervention situations. The authors set out the social worker, counselor/advisor, referral agent and team member with mental health practitioner roles necessarily inherent when dealing with such situations and express the belief that peer praise and administrative praise are important if rural peace officers are to fulfill community expectations in that regard.

2. Notwithstanding Ward's justifiable indictment of our contemporary notions of rural and small town law enforcement officers, some literature is beginning to surface which probes questions such as what kind of people hold these positions, where they come from, what is their motivation, how do they perceive their job, etc. [See the Handberg/Unkovic paper, which follows, regarding rural sheriffs.] See also:

Decker, Scott H., "The Working Personality of Rural Policemen," LAE Journal of the American Criminal Justice Association, Vol. 41, No. 3 (Fall 1978) provides a good many insights into these and other questions. Decker particularly focuses on a hypothesized greater integration of rural peace officers with the value structure of their communities, the commitment of rural peace officers vis-a-vis the police-citizen dependence that develops in rural areas, and the perception of rural police by rural citizens and of rural citizens by rural police. He concludes that, significantly different from their urban counterparts, the rural officer's occupational personality is shaped

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more by the social organization of the community than by the occupation, and that his integration into the community, his perceptions of community and its perception of his occupation, and his commitment to the community's normative ideals, mediate conflicting demands on the role and functions that stem from this occupation. In short, these three elements combine to prevent the development of a distinctive working personality of rural law enforcement officers.

3. Interestingly, a review of the literature reveals considerable interest in job-related stress on law enforcement personnel, particularly whether stress-related symptoms (e.g., divorce, alcoholism) can be traced to the nature of law enforcement work. Not surprisingly, little or none of this attention focused on rural law enforcement officers until Joan Phillips Sandy and Donald A. Devine published "Four Stress Factors Unique to Rural Patrol," The Police Chief, Vol. 45, No. 9 (September 1978). Attempting to treat only stress factors apparently unique to rural officers, the authors first identify security--that is, concern for lack of personnel back-up, the common perception of the officer that he will be dealing with an armed person (most rural homes contain firearms). Identified second are social factors--lack of anonymity, inability to put professional identity aside, typically close family ties to the community. Treated third are working conditions--little control over the low salaries, limited training opportunities, limited promotional/career opportunities. Finally, they list the inactivity encountered to a greater degree in the rural setting which fails to provide the officer with adequate sensory stimulation and has a detrimental effect on his or her professional esteem. The authors concluded that these stress factors unique to rural areas warrant a re-evaluation of the expectations of rural officers so that they may be brought more in line with the valuable work they actually do in their communities, and a re-evaluation of training curricula for rural law enforcement officers. See also:

Barker, B.B., "Methods for Reducing Stress In A Small Police Department," from Job Stress and the Police Officer--Identifying Stress Reduction Techniques--Proceedings of Symposium, 1975, by W.H. Kroes and J.J. Hurrell, Jr., NCJRS Microfiche Program, Box 6000, Rockville, MD 20850. This work discusses the sources of stress on officers in small communities and suggests strategies for dealing with it, and strikingly parallels the findings of Sandy and Devine.

4. Ward's review of the nature of rural crime is based on data available up to 1977. For a comparison of more recent findings, see Moore's presentation in Part I. Also, compare Ward's descriptive data on rural sheriffs with that of Unkovic and Handberg which immediately follows.

CHAPTER IV

CHANGING PATTERNS IN RURAL LAW ENFORCEMENT: THE COUNTY SHERIFF AS A CASE STUDY

by Roger Handberg
and
Charles M. Unkovic

Law enforcement agencies in rural areas are generally hidden from public view. The primary focus of public attention is upon the urban areas where problems are larger or more visible to the media which often determine their importance (Wilson, 1968; 1975). It long has been observed that rural society, by definition, is isolated from the mainstream of society's communication flow (Smith, 1933). Unfortunately, even the emergence of television has not changed the pattern of news coverage which remains sporadic and perpetuates misguided notions of both the rural environment and its law enforcement officers.

This myopia also affects the social science-criminal justice literature which focuses primarily upon urban-suburban criminal justice agencies and virtually excludes rural criminal justice systems (Handberg and Unkovic, 1978). Much of the available literature is heavily court oriented, especially in terms of legal services programs (Rural Courts Project, 1977). The literature on rural policy forces tends to be primarily case studies or else technically oriented law enforcement studies (Esselstyn, 1953). In the latter category, the emphasis is upon departmental organizational processes and equipment needs (Brammer and Hurley, 1968; National Sheriffs Association, 1977).

This paper has several parts. The characteristics of sheriffs in the rural counties of fifteen sunbelt states will be described (Handberg and Unkovic, at press). This approach is fairly straightforward though informative because it places the rural criminal justice system in a broader perspective than the usual isolated case studies or surveys of single states. Differences in how the sheriffs perceive the system and its effectiveness will be examined. The sheriffs' attitudes toward broader law enforcement issues will also be examined. The result is a composite portrait of the county sheriff--the major law enforcement official in the rural South (Brammer and Hurley, 1968).

In so many rural counties the sheriff (and his department) is the law; therefore, county sheriffs are critical figures in the rural criminal justice system. In many states the sheriff, as a matter of law, is the law enforcement official in the county (National Sheriffs Association, 1977). Other agencies operate in the county but they can be superseded by the sheriff. Usually the sheriff works out agreements with these agencies as to patrolling patterns (Handberg and Unkovic, 1978b). In fact, some small communities within the county often contract with the sheriff for their law enforcement needs instead of organizing and running their own separate police department. Practically speaking, these agreements are subject to the sheriff's discretion and can be structured to suit his needs. Because of the power and discretion inherent in the office, the sheriff has an enormous impact upon how "justice" is meted out to different groups in the county.

What makes the sheriff unique in another way is the fact that the sheriff is an elected law enforcement official (German et al., 1968). Most elective law-related positions are lawyer dominated such as prosecutor or judge. Other law enforcement officials such as police chiefs are usually appointed by local governing bodies like city councils or commissions or else are selected by single officials such as city mayors. Because appointed officials are more directly accountable to such governing bodies, they may often appear somewhat less responsive to community desires.

Additionally, it has been noted by observers of our justice system that there are greater tendencies toward police professionalism in those departments headed by appointed officers. Thus, it can be argued that the appointed rural law enforcement officer possesses greater tendencies toward professionalism but less sensitivity to the needs of the electorate community. Consequently, the appointed police officer comes to operate on the basis of a set of standardized norms which in theory should be impervious to "corruption" by the community. James Q. Wilson (1968) speaks of this process and its (short term) consequences in the context of the "legalistic" policing style. The result can be a department like Oakland, California which has extremely abrasive and hostile community-police relations. The difference for the sheriff is that such poor community-department relations are unacceptable because such a pattern is tantamount to political suicide.

The county sheriff is normally elected for a four-year term with the possibility of reelection. In Southern folklore and fact, the sheriff has the power to be an important, even dominant, figure in county politics (Key, 1949). His force of deputies provides a ready-made campaign organization. The sheriff's political position has remained basically intact while efforts by criminal justice reformers have eroded some of the sheriff's law enforcement powers. This is seen most notably in large urban areas such as Dade County (Miami), Florida. Several states have begun developing county police forces as a supplement or replacement for the sheriff's deputies. The goal often is to reduce the sheriff's actual law enforcement role to that of process server and jailer. Other reform attempts have been more indirect. The deputies can be required to undergo a certain amount of professional law enforcement training which the sheriff personally cannot be required to complete. Through this indirect method, the department's quality of performance can be improved. Most of these reforms have been absorbed by the sheriffs without undue difficulty, thus preserving their political and legal position (Henderson, 1975).

Method and Sample

A two-wave survey of county sheriffs was conducted in fifteen Southern and Southwestern states during the spring and summer of 1978. A total of 642 sheriffs responded to the survey for a return rate of forty-eight percent. These sunbelt states were selected for the survey because the sheriff's office is still a significant political and law enforcement position within the region (Sale, 1975). On a state-by-state basis, the return rate was: Alabama - 52 percent (35), Arizona - 79 percent (11), Arkansas - 44 percent (33), Florida - 82 percent (54), Georgia - 56 percent (89), Kentucky - 40 percent (48), Louisiana - 32 percent (21), Mississippi - 54 percent (44), New Mexico - 66 percent (21), North Carolina - 41 percent (41), Oklahoma - 42 percent (32), South Carolina - 46 percent (21), Tennessee - 34 percent (32), Texas - 48 percent (122), and Virginia - 41 percent (39). The variation in the return rate by state makes it difficult to conduct a state-by-state analysis; therefore, the results are discussed in a regional context rather than by individual states.

The results of the surveys are reported by comparing three distinct subsets within the sheriff sample. An earlier paper has defined rural sheriffs as sheriffs who operate in counties with a population density of forty-four or less persons per square mile (Handberg and Unkovic, 1979). That conceptualization has been developed because of difficulties that arose in using population as the primary measure of ruralism. The attempt floundered because some states have a large number of counties which cover only relatively small geographic areas thus, in effect, capping the population. Also, many small population counties in the South are characterized by a high level of industrialization. The resulting counties were in fact suburban or urban but by a population measure would be classified as rural. The population density measure used here correlates nicely with other facets of ruralism including population employment patterns, income levels and general educational levels.

Therefore in order to further refine our analysis, we have separated the sheriffs into three distinct sub-groupings. The group designated "small rural" in this paper consists of those sheriffs serving in counties with a population density less than or equal to twenty persons per square mile. The second group, designated "medium rural," consists of those sheriffs in counties with a population density greater than twenty persons per square mile and less than or equal to forty-four persons per square mile (the original measure). Both groups in an absolute sense are rural sheriffs but the density measure used here separates those counties with small populations and vast distances from those counties with small populations that are relatively more concentrated. The former are more apt to be found in the rural Southwest, although Georgia, Florida and Mississippi also have a number of those counties. Finally, a third group of sheriffs, designated "urban," are analyzed. These individuals serve in counties with a population density of forty-five persons or more per square mile. This group provides a counterweight to their rural counterparts. Their importance lies in the fact that these sheriffs are the ones with whom most people are likely to come into contact in an official capacity. As defined here, the small rural county group consists of 179 sheriffs, the medium rural of 207 sheriffs, while the urban county sample has 246 sheriffs.

Personal Characteristics

In Table 1 (on the following page) we compare the rural sheriffs with their urban counterparts in terms of certain personal characteristics. Complementing the data in Table 1, other works have shown that Southern county sheriffs are white, middle-aged males. There are no female sheriffs within this population although there are a number of black sheriffs. The latter are concentrated in those counties where enough black voters exist to elect black officeholders even when the election becomes polarized along racial lines (Campbell and Feagin, 1975).

One fact appears startling given the usual public perceptions of the rural sheriff; the relatively low tenure level (2.8 years) of the small rural

TABLE 1

Personal Characteristics of Rural Sheriffs Compared With Urban Sheriffs

	Small Rural	Medium Rural	Urban
Median Age	45.5 yrs.	46.7 yrs.	48.9 yrs.
Median Education[a]	12.2 yrs.	12.1 yrs.	12.4 yrs.
Median Yrs.-Police Work[a]	8.6 yrs.	9.0 yrs.	11.8 yrs.
Median Yrs.-Sheriff[a]	2.8 yrs.	5.0 yrs.	4.9 yrs.
Sought Other Political Office[b]	21 percent	19 percent	17 percent
In-Service Training[c]	87 percent	76 percent	87 percent
(n)	(179)	(207)	(256)

[a] $p<.05$

[b] Indicates percentage of the sheriffs who sought political offices other than that of sheriff.

[c] Percentage of the sheriffs who had in-service police training prior to becoming sheriff.

county sheriffs is unexpected. Their median tenure as sheriff is half that of the more urbanized county sheriffs. This newness in office implies there has been a significant electoral turnover among small rural county sheriffs over the last four years. Such an electoral turnover is important when one attempts to assess the changing patterns of Southern rural justice. Popular misconceptions would have us believe that the county sheriff is an individual deeply immersed in local culture with a hammerlock hold on his office. No significant local political challenge to the sheriff can be mounted because of his personal visibility, close personal links to the local power structure, and a corps of deputies available as a ready-made campaign machine. While not altogether inaccurate, evidence shows this view is significantly dated. It is true that some individual sheriffs still remain in office for long periods of time but the more demographically rural sheriffs in particular have suffered considerable turnover in recent years. It is important to remember the focus is on the sunbelt states, for what we may be indirectly observing are the results of the 1965 Voting Rights Act. As an increasing number of black voters register and in fact vote, the old segregationist sheriffs fall prey to the changing wheel of electoral fortune. The South they represented is not dead but it is not as dominant as before (Matthews and Prothro, 1966; Salamon, 1973; Tatalovich, 1975).

The urban incumbents represent the more professional end of the sheriff spectrum, especially in terms of formal education and police experience. This contrasts with the more rural situated sheriffs who substitute personal connections and political experience for professional police credentials (as measured by years of police experience and whether the sheriff sought other political office) (Handberg and Unkovic, 1979). The age difference is attributable to differences in levels of experience. Differences in professional credentials are best compared by reference to Table 2 (on the following page).

For data analysis in Table 2, each sheriff was asked to indicate whether he had personal experience in various categories of police work. Generally, the pattern is a bimodal distribution; the small rural counties and urban sheriffs are more similar than the two rural sheriff groups are to one another. The urban sheriffs are generally more experienced than their rural counterparts but the biggest differences are between the medium rural group and the urban group. What appears to occur is that the small rural county sheriffs head small departments (median size of five deputies) where diverse police experience becomes the norm or expectation. A deputy cannot afford to become a true specialist in the manner typical of the large metropolitan department (National Sheriffs Association, 1977).

The urban sheriff heads a larger department (median size of eighteen deputies) which allows some opportunity for specialization. The greater length of police service of the urban sheriff allows him to undertake a diversity of tasks but over a longer time frame. The police experience acquired by the sheriff is usually in the department he now heads. One apparently enters the department as a deputy and later runs for office, possibly against the person who originally hired him as a deputy. Such a career pattern has the effect of narrowing the pool of "eligible" candidates for sheriff. An inexperienced outsider can be selected since the office is elective but the deputy has the advantage of arguing that police experience is necessary to run an effective department. Because the sheriff's election opponents are likely to come from within the department, many sheriffs employ family members within the deputy force or office staff. Such hiring practices are the prerogative of the sheriff (since most states leave departmental organization to the sheriff's discretion). The result for the sheriff is improved family income (of special importance in poor rural counties) and reduction in the number of competitors. In some counties, the attempt is to pass the office from generation to generation, almost in the manner of a fiefdom.

Beyond this crude measure of diversity and length of experience, we have no measure of the quality of that experience. The rural sheriff appears in composite to be basically a politico with a certain amount of professional experience. This political dimension of the rural sheriff, in contrast to the urban sheriff, is highlighted when you consider the origins of the respective sheriffs. Rural sheriffs are more likely to have been born in the county they presently serve. Locally born sheriffs are more likely to be found in those counties with a high percentage of persons of low income and a low level of education. Sheriffs from urban counties tend to have more cosmopolitan backgrounds than rural officeholders.

Relative to political identification, one survey revealed the sheriffs to be overwhelmingly Democratic in their party affiliations (in excess of eighty-eight percent Democratic). What is more startling is the fact that seventeen per-

TABLE 2

Professional Experiences of Sheriffs

Type Experience	Percent Small Rural	 Medium Rural	 Urban
Patrolman*	60	54	66
Detective*	34	28	48
Juveniles*	31	17	26
Lab Work	6	5	7
Desk Officer	20	16	20
Field Supervisor*	30	22	35
Headquarters Supervisor*	17	17	31
Corrections	29	26	26

Note: Percentages add to more than 100 percent because individuals can report multiple experiences.

*p<.05

cent of the small rural sheriffs identify themselves as political liberals. Such a self-identification is not normally associated with Southern county sheriffs. What we may be seeing is the newly-elected rural sheriffs bending to the prevailing political wind blowing within their county. However there has been no examination of whether these newly-elected rural sheriffs actually exhibit the "liberal" behavior one might expect from their self-professed political persuasions. In fact, the sheriffs surveyed may only be paying lip service to the new politics of the South that have emerged as earlier segregationist patterns have become unacceptable.

The degree of the sheriff's and his department's responsiveness to the demands of the public depends in large part on whether those demanding services interact directly with the sheriff. Historically in the South, this has meant that blacks and other minorities had no real influence upon the sheriff and his department. The department, reflecting the dominant political structure of the community, saw black demands and needs as either irrelevant and to be essentially ignored, or threatening and demands to be repressed because of their potential for social and political change (e.g. the "outside agitators" of the 1960s). As the electorate expanded, sheriffs came under increasing pressure to extend at least ostensible equality of treatment to all citizens. From a wide range of possible responses, the sheriffs appear to have become more receptive to requests from the black community. However the decreasing number of senior Southern sheriffs in recent years would indicate that they, in particular, have not been able to make this transition (Handberg and Austin, 1977).

The Sheriff's Department

Rural sheriffs run small departments. The urban departments are generally three or four times larger. One effect of this small size is that the rural departments do not run their own training programs (only three percent report running their own police academy). In addition, the requirement that the sheriff run a jail severely cuts into available manpower resources. Small rural county sheriffs are more likely to run a jail than the urban sheriff despite the disparities in available manpower resources. The result is that the rural sheriff has to make what are often hard choices: maintain a visible and viable patrol presence or run the jail. Different sheriffs make different choices. In some rural counties there is no systematic patrol activity by deputies after sundown or some other arbitrary time period. Rather, the jailer serves as the contact point with deputies dispatched in the event of serious felonies but not for routine investigations. This patrol pattern partially explains why rural crime statistics are often artificially low. People stop reporting minor crimes when the only official response comes the next day if at all.

Other sheriffs minimize the resource commitment made in maintaining the jail. Given the low priority of corrections, abuses are bound to occur when the sheriff is indifferent to the jail and has had little, if any, personal experience in corrections. The in-service training received by most rural sheriffs is oriented toward improving the law enforcement activities of the department, not its corrections arm. Jailers are often just individuals assigned temporarily to those duties with no training or prior experience.

Reform and improvement of the corrections services in rural sheriff departments would seem to be a major reform task facing the government. Enforcement of existing standards for jails and jailers would significantly improve the situation. Many sheriffs are not opposed to such changes and improvements, but rather are indifferent and reluctant to pursue such secondary goals at the expense of the primary departmental goal of law enforcement. Some sheriffs might welcome state inspection visits as useful devices in generating leverage against the county commission which usually must authorize the actual construction of improved facilities and provide continuing resources for increased staffing. Sporadic inspections with minimal follow-up rarely generate sufficient pressure. The sheriff remains relatively indifferent since only so many accomplishments are possible with his limited resources.

Perceptions of Effectiveness

Since most crimes go unreported and, according to the annual FBI Crime Reports, go unsolved when reported, we were intrigued to discover how the sheriffs evaluated the relative effectiveness of their department in handling certain crimes. Table 3 (on the following page) reports the results of that

TABLE 3

Sheriff Perceptions of Departmental Effectiveness

Crime	Percent* Small Rural	Medium Rural	Urban
Hard Drugs	60	58	65
Prostitution	52	47	49
Marijuana	60	61	61
Juvenile Offenses	55	66	70
Drunkenness	67	70	65
Assault	88	87	90
Murder	89	85	91
Fraud	74	76	74
Burglary	81	77	84
White Collar Crime	46	46	44

*Indicates percentage who evaluated the department as effective.

questioning. The crimes evaluated by the sheriffs run the gamut from "victimless" crimes to murder.

Statistics relative to the actual reporting rate for the various crimes and their actual clearance rates would indicate the sheriffs are exceedingly optimistic about their departments' effectiveness. The trend, though, is clearly uniform across the various offense categories and across the three subgroups. The resulting pattern is that the urban sheriffs see their departments as more effective in dealing with crimes for which a specialized unit is likely to exist, especially in a larger department. The obvious example is the use of the vice squad to crack down on prostitution and drugs. Juvenile offenders are also often handled by specially trained and selected officers within the department. Generally, the sheriffs evaluate their departments as capable of handling the crimes reported. Actually, what is surprising is the fact so many sheriffs are willing to indicate their department is ineffective in handling certain offenses. The percentage changes down the list indicate the sheriffs are truly giving their honest appraisal of how well they personally perceive their department as effective. Offenses such as murder are gener-

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ally beyond the power of the department to control but once reported, the sheriffs feel the department will effectively handle the case.

Professionalism

In order to further assess the professionalism of the sheriffs, we constructed a composite five-item index of police professionalism. The sheriffs responded to a series of questions about various matters related to law enforcement. The range of scores was five to twenty; a score of five means the more professional individual, at least in terms of attitudes. The purpose was not to isolate any particular set of questions which would identify professionally oriented sheriffs, but to provide a common basis for comparison among the three groups.

One might have assumed that urban sheriffs, given their added professional experience, would exhibit more professional attitudes than their rural colleagues. That assumption was not true. The average and median professional index score for the three groups was: small rural (mean--11.0, median--11.7), medium rural (11.0, 11.2) and urban (11.4, 11.7). These results indicate minimal differences between the three groups. The respective standard deviations were: 3.0, 2.4 and 2.5. This indicates the dispersal pattern was similar although the small rural county sheriffs were somewhat less clustered but not significantly so.

This finding is noteworthy as it relates to the lack of difference found among the three groups. It indicates that at least the rhetorical norms of law enforcement professionalism have spread even into these more isolated segments of American law enforcement. Whether adherence to these norms is accompanied by consistent professional behavior is a question beyond the scope of this paper. Impressionistic evidence indicates that significant deviations from those professional standards still occur although it is not clear whether more incidents in fact occur in rural than in urban areas. Instances of urban police misbehavior are reported more quickly than in rural areas. Whether the actual incident rate varies significantly is unknown since most of the evidence is episodic and largely unreported (Reiss, 1971).

The Department and Community

Given the intensely political nature of the sheriff's office along with the individual sheriff's strong local ties, it is to be expected that the sheriffs see themselves and, by extension their department, as deeply involved in the community (Handberg and Unkovic, 1979). The sheriffs overwhelmingly accept the idea that the department must be actively involved in the community beyond pure law enforcement activities. A sheriff who neglects these community ties is obviously less likely to survive the next election when an opponent appears claiming greater personal responsiveness to the electorate's needs.

The one hint we have which might explain the low tenure level of the small rural county sheriff is the fact that when asked to rate public cooperation with the department, those sheriffs have the highest reported percentage of poor public cooperation ratings (Handberg and Unkovic, 1978). Apparently these sheriffs have not been able to solidify public support for their activities.

We do not know whether this breakdown in cooperation occurred because of acts of commission (e.g. acts of brutality) or omission (e.g. failure to respond to crime reports). The sheriffs' reports gathered by our survey regarding their relationship with local news media show no major differences. All three groups reported their media relations as generally friendly with only about sixteen percent indicating unfriendly media relations. Thus, while we know that small rural sheriffs have the shortest tenure of the groups studied and have apparently alienated significant segments of the electorate, the cause does not appear to be due to poor media relations.

Obviously, then, the fact that the sheriff is an elected officer is both advantageous and disadvantageous. If all citizens can vote, there is the potential to purge from office those sheriffs who are unresponsive to public needs. From the community perspective, reform and change are possible but likely to be gradual. Other law enforcement agencies and their administrative heads are not as amenable to such public pressures. In those situations, pressure for removal is exerted through intermediaries such as city councilmen and the news media. In the sheriff's case, such pressures are directly proportional to the number of eligible voters and their turnout on election day. Moreover, this "accountability" can be a double-edged sword whereby one group (the dominant one) might use the office to repress the other (e.g. the old segregationist pattern). The long-term solution becomes amelioration of the hatreds and prejudices in the community. The rural sheriff reflects those pressures although not necessarily with as much intensity as desired by some segments of the community.

Conclusion

The broad discretion exercised daily by rural sheriffs and their departments, perhaps more than any other single characteristic, makes them a pivotal link in the rural justice system. In terms of external characteristics, the rural sheriff appears to be more the linchpin of American law enforcement than one would expect given popular misconceptions. The critical element of justice in rural society, at least in relation to the office of sheriff, is electoral accountability. Rural voters must consciously vote on the basis of performance of the sheriff and his department. More importantly, rural and especially poor rural (regardless of race), voters must vote; otherwise they are conceding the field to those who may not have the same goals or interests. While electoral rationality cannot be calculated to introduce radical changes in rural criminal justice, it can reduce the potential for injustice within the context of this one institution. By the nature of their office, sheriffs are political and must represent the mainstream of the local community. Thus, reform and improvement require changing the course of the current.

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Editors' Notes

1. Perhaps the most extensive and comprehensive examination of the daily functions performed by county sheriffs and assessment of their "nuts and bolts" capabilities, problems, and needs, is the recently published County Law Enforcement--An Assessment of Capabilities and Needs, National Sheriffs Association, Washington, D.C. 20036. Since the majority of counties in this country are partially or wholly rural (eighty percent), this work avoids much of the urban bias usually so difficult to repress from nationwide studies and surveys. Additionally, considerable effort is made throughout to compare and distinguish among rural, suburban, and urban counties. The publication covers topics ranging from salaries to support services, from traffic control to jail operations, and vividly illustrates the dimensions of current dilemmas faced by county sheriffs such as the competing demands of law enforcement and jailer.

2. As Handberg and Unkovic hint, the inherent "politicalization" of the county sheriff's office can often cause friction and power play maneuvering between sheriffs and state criminal justice policymakers. Professor James Jordan provides one example of how such friction can manifest itself in "Rural County Sheriffs on Trial in Ohio: Reform Movement or Power Politics?", paper presented at the National Symposium on Rural Justice, Knoxville, Tennessee, June, 1979.

3. For comparison of an earlier work on rural sheriffs with that of Handberg and Unkovic, T.C. Esselstyn's "The Social Role of a County Sheriff," Journal of Criminal Law, Criminology and Police Science, Vol. 44, No. 2, pp. 177-184 (1953) is interesting reading. Esselstyn's examination is particularly interesting in the way the "social role" of rural sheriffs is broken into four components: (1) social circle; (2) social person; (3) social status of office; and (4) social function. It should be remembered, however, that Esselstyn studied sheriffs between 1946 and 1950. Inasmuch as the rural environment has significantly changed since then and rural county sheriffs and their offices apparently have also (Handberg and Unkovic, supra) the implications of this study may not be what they originally were. However even at that time rural justice commentators recognized that " . . . open country crime does not conform in all particulars to general ideas of crime beyond the metropolis thus far advanced. However generalizations can hardly be made until further studies have been conducted along similar lines. Important by-products of such studies will probably be a fresh understanding of the law and of law enforcement."

4. If it is true that rural areas are changing, rural crime is changing and the role and/or functions of the rural county sheriff is changing (Handberg and Unkovic, supra), is there any evidence that rural law enforcement can keep up with this change? While admittedly scant, the literature reveals a few encouraging examples that it can. Perhaps typifying the few modernizing efforts that have been documented is the account of Lt. Richard Piland of the Multnomah County (Oregon) sheriff's office, "The Changing Role of the County Sheriff-Part IX," The Police Chief, Vol. 44, No. 2, pp. 68-70 (February, 1977). Multnomah County has pioneered improving and supporting rural law enforcement efforts and Piland describes the kind of creativity and imagination sheriffs offices are capable of in their crime prevention efforts.

It can be noted, however, that much of the progress made there is attributed directly to the availability of LEAA funding, resources that have been on a steady decline in recent years and are not likely to be renewed.

CHAPTER V

AN APPROACH TO ENHANCE RURAL LAW ENFORCEMENT

by James Vetter

Rural America's criminal justice system is responsible for over one-third of this nation's population and slightly over eighty percent of the land mass.[1] Unfortunately, rural criminal justice systems are generally small and lack resources required for the development and implementation of change. Nonetheless, within these times of decreasing resources and increasing service demands, it is important for rural criminal justice practitioners and citizens to have alternative "models" from which to choose, vis-a-vis the improvement of their criminal justice systems.

The Law Enforcement Assistance Administration (LEAA) was created to help all of this country's local criminal justice organizations upgrade their services delivery capability. However since its inception, the major focus of LEAA's effort has been on the improvement of urban criminal justice systems. Until recently, the "models" for change that were developed and tested through LEAA-supported efforts lacked "rural character." As such, they were not often adopted by rural practitioners and decision makers.

Cognizant of the need to incorporate the concept of "ruralness" into models related to improving the rural criminal justice system, LEAA sponsored a conference in Keystone, Colorado during the latter part of 1975. Based on the inputs provided by the rural criminal justice practitioners from throughout the West who attended the conference, LEAA initiated a modest program to serve rural enforcement needs.

This paper will describe the program that has resulted as well as explain the intricacies of the varying approaches and "models" that were developed and are now being utilized to improve the efficiency and effectiveness of rural law enforcement operations. This writer believes important lessons were learned as a result of this effort. Those lessons relate to organizational aspects of implementing change in the rural environment as well as sociopolitical parameters which must be recognized and dealt with by anyone who wishes to alter any rural law enforcement system.

The various topics that will be covered in this paper will include, but not be limited to, the following:

- LEAA's assumptions/expectations;
- Alternative "models" related to law enforcement services delivery (e.g., resident deputy/resident trooper program);
- Key implementation issues related to the various "models;"

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[1] James H. Olila, et al., *Challenging the Myths of Rural Criminal Justice* (St. Cloud, Minn.: St. John's University, 1975).

- Results and impacts of the program, and
- Lessons learned.

Moreover, this paper will provide valuable insight for those who hope to initiate change in this nation's rural criminal justice system.

Background

As a police planner with a predominately rural constituency, I became increasingly aware of the needs of rural law enforcement, but most of the data we had for planning purposes reflected "conventional wisdom." In order to fill this void, I approached the LEAA Regional Administrator, Joseph Mulvey, and outlined the parameters of the problem and need to gather better information for developing approaches to the specific rural problems. He approved the funds necessary to conduct a data-gathering effort.

During our review of the limited amount of literature in the field, we discovered some work done by the Rural Crime and Justice Institute at St. Johns University in St. Cloud, Minnesota. This group of skilled professionals dedicated to improving rural systems, directed by Dr. Dennis Kleinsasser, assisted us in putting together a conference format which used modified nominal grouping techniques to identify rural enforcement problems.

This conference, the Keystone (Colorado) Conference in late 1975, was the stimulus for several programs that attempted to influence change within rural enforcement systems, using Law Enforcement Assistance Administration dollars, located in the Rocky Mountain Region.

The following year, using regional LEAA discretionary funds, we were able to put together a training program for rural practitioners in Billings, Montana. This three-day conference was designed to allow the attendees to pick subject areas that were of particular importance to them. The program was three-tracked with each track being presented twice. Each subject area was carefully developed so that it represented rural applications and every effort was made to screen out urban bias. The "student" evaluations of the program were very favorable. In fact, the program was repeated for three additional years.

The Keystone Conference generated an additional notion--that of a resident deputy or, in essence a hybrid Texas Ranger, a skilled and trained law enforcement practitioner who would be placed in remote areas of the country (and western counties are extremely large) to live in the community he serviced and provide all the law enforcement services.

This general notion was passed on to Robert Heck of LEAA's Central Office during a police specialist meeting in Louisville, Kentucky. He took the skeletal notion and put together LEAA's Resident Deputy/Resident Trooper Discretionary Program. The first field demonstrations were initiated in early 1977. Though the program was a minor part of LEAA national discretionary effort, its impact is significant enough to examine.

LEAA's Expectations

The rural program was intended to assist a limited number of rural enforcement agencies throughout the United States to better direct, coordinate and implement a variety of rural-oriented enforcement programs. It was also intended to provide an operational laboratory to test a number of potential enforcement models in a rural setting. There was an additional hope that all or parts of the program would be institutionalized within the local department's structure after the federal funding period ended.

The original estimate was that there would be little, if any, impact on crime reduction during the project period because of the limited personnel and dollar resources involved. As later discussion discloses, this was an impact we underestimated and in several sites crime reduction was quite significant.

Lastly, LEAA assumed that calls for service would increase as the resident would be "on call" twenty-four hours per day.

What LEAA Required of the Projects

To ensure that the program functioned smoothly and effectively, the "host" agency or organization was asked to meet specified minimum requirements. It was required to provide a full-time officer to the project who would be able to:

- Work in the selected project area on a full-time basis;
- Live in the project area, and
- Be assigned to full-time law enforcement functions.

In addition, the host agency would have to agree to:

- Have communications coordinated through the resident deputy trooper assigned to the project;
- Provide backup and support services for the resident deputy trooper, and
- Participate on the rural law enforcement advisory committee (generic to all sites) as an equal partner with the participating jurisdictions.

While each program took on different dimensions, one component was required of each--the advisory committee. This committee was made up of one elected representative from each jurisdiction served and the host agency, and was responsible for grant preparation, program monitoring, budget overview and general policy development. In essence, these committees were the strength of the program and the touchstone of local "buy-in."

Program Models

While each program had individual characteristics and uniqueness, three general models emerged. They could be grouped as follows:

- Resident Trooper

  The trooper was assigned to serve in a particular portion of a county and had no other assignment with the parent organization.

- Territorial Deputy

  The deputy was assigned a portion of a county and provided law enforcement services to that area but did not reside in that area.

- Resident Model

  The deputy was assigned a portion of the county, provided law enforcement services and lived in that area.

An assessment of these models by Public Administration Services[2] in August of 1978 concluded that each ". . .either works or has the capability of working within the context in which it was developed."

General Findings[3]

Although neither complete documentation nor empirical evidence is available to substantiate the following findings and conclusions, the experience gained to date in the ten funded programs led to the following conclusions:

- The program appears to reduce the fear of crime and increase peace of mind. Many citizens of areas served by a resident officer commented the program has "reduced the incidence of burglary, larceny, criminal mischief, harassment, etc." Although neither local crime data nor victimization study information was available to document this claim, it was apparent from discussions with these people that what has occurred is that the availability of improved law enforcement service has reduced their fear of crime and has generally increased their peace of mind. A number of persons commented that they felt much more comfortable in their home town, that they could sleep more peacefully at night and that they had far less fear of being a victim of a crime or having their property damaged by a troublemaker.

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[2] Terry W. Koepoell, An Overall Assessment of the Rural Law Enforcement Programs Funded During 1977-78. (Washington, D.C.: Public Administration Service, 1978).

[3] Ibid., p. 16 (editorial changes have been made).

- The program has demonstrated crime can be controlled through improved resources in rural areas. Much of the criminal problem in rural areas was found to revolve around the lack or limitation of available law enforcement resources. As resident officers began to work in a particular area, either alone or in conjunction with local part-time persons, both Part I and Part II crimes were investigated and solved. One resident trooper indicated there "is not a crime that cannot be solved with sufficient time and interest." In areas where crime data were available allowing more intensified investigation and clearance of crimes such as burglary, larceny, criminal mischief, harassment, etc., they were reduced substantially from the beginning to the end of the first year of several rural law enforcement programs. It is interesting to note these reductions occurred primarily as a result of one resident officer (e.g., in most cases the resident officer worked alone, while in other cases he worked with local law enforcement officers who were operating in these areas even before the program, but who had no significant effect on these criminal activities).

- The program appears to have increased citizen confidence in law enforcement. This increase in citizen confidence was exemplified in many projects by increased reporting of criminal activity, the provision of citizen assistance in identifying suspects or suspicious situations, the creation of the "town hall" as a new source of criminal intelligence and related information and general attitudinal changes on the part of both public officials and local citizens toward the value and importance of local law enforcement officers. On a number of occasions, public officials commented that since the start of rural law enforcement programs, the confidence, capability, competence and general appearance of the local officers had improved significantly.

- Limited local law enforcement capabilities can be upgraded through the program. In most cases where local officers were available to work with resident officers, the capabilities of the local officers were improved. This was found to be true in Marquette County, Ulster County, Westchester County, Chautauqua County, Penobscot County and elsewhere. Resident officers in these locations served as "field training officers," advisors, "supervisors," providers of technical assistance and backup, etc. This upgrading of local capability covered a broad range of skills including patrol tactics, investigative procedures, arrest procedures, administrative and support functions in local agencies, etc. It is interesting to note that in cases where host agencies lacked some degree of law enforcement sophistication, where they were not already respected by local agencies and when local officers had as much training as host agency resident officers, the upgrading role was quite limited and, in some cases, nonexistent.

- The program can positively influence youth crime. In one program in particular--Marquette County--the RLE (Rural Law Enforcement) concept demonstrated that youthful offenders could be quite positively influenced. In this instance, the resident trooper worked toward the development of youth centers and other alternatives. He also, however, arrested a number of youthful offenders. In these instances, he used discretion by presenting alternatives to incarceration including restitution, turning the offenders over to their parents, etc. By working firmly but fairly with the youth, several examples were cited where complete turnarounds occurred and the same youths strongly supported the resident trooper both philosophically and physically.* Other examples of this same result were identified during other site visitations.

- Public reaction to the program has been positive, quick and strong. In nearly all cases, public officials and citizens who were involved in a rural law enforcement program spoke very favorably of it. In New York State, however, actual demonstrations of support occurred. In particular, the four New York State Police programs were concluded at the end of their first year of operation through a variety of misunderstandings and mix-ups between the NYSP and LEAA. When public officials and citizens in the four areas learned about this premature termination, several violent reactions resulted. For example, a variety of letters were sent to the New York State governor, LEAA and President Carter via local public officials and congressional representatives. In Herkimer County a petition was filled with 700 names "overnight" and elderly citizens were prepared to send "busloads" of their peers to Albany to march in protest before the governor. Many of these attitudes were confirmed during site visitations.

- In rural areas, the control of major crimes is not necessarily the only issue. In a number of the areas visited, although burglary and larcenies occurred, their volume was far below national averages for rural areas. In many of these cases an even more critical problem to local citizens was the incidence of criminal mischief, harassment and vandalism. These crimes severely disturbed area residents, particularly the elderly, and upset much of the serenity and peace for which these people had chosen to live in such areas. During several site visitations, the most important benefit of the RLE program was said to be the reduction in the incidence of these types of activities.

- To be most effective, RLE programs should clearly attempt to augment and upgrade local capabilities. Among many of those programs where local law enforcement capabilities were limited or nonexistent, the project had little success. In one program (a New York State Police program) when termination occurred, some local officials were not particularly upset and began searching for other alternatives. In another, the program never really became cohesive because the resident officer had become the local capability. In these instances, the resident officer was simply another sworn officer who had been hired to be the local cop rather than to assist in building an improved local capability. This is not only counter to the intent of the RLE program, but it can have a negative effect on the resident officers. Without the support of local part-time officers, the workload on the resident officer may become excessive; the true potential skills and training are used to only a limited extent; and once a program terminates or federal funding ceases, the participating jurisdictions are essentially no better off than they were before the program started.

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*On one occasion, youths who had previously been arrested by the resident trooper physically protected him from being assaulted by other youths.

- Small law enforcement agencies may not be successful in hosting effective RLE programs. In general, the "strongest" programs visited had the "strongest" host agencies. These agencies had sufficient size and sophistication to offer "improved capabilities" to the participating jurisdictions, e.g., a strong investigative capability, a local training academy or training capability, 24-hour dispatching, a central records storage and retrieval system, traffic control equipment and adequately trained resident and regular officers. Host agencies without these capabilities appeared to fall short in providing services to participating jurisdictions and also appeared to have weaker programs (e.g., Blanco County and some of the programs in Utah).

- Jurisdictions that participate in a RLE program should have historical socioeconomic ties and/or prior experience in working together. In three of the programs visited (Ontario-Yates Counties, Herkimer County and Blanco County), the participating jurisdictions had a very limited sphere of common interests. In Ontario-Yates Counties townships were located in two separate counties, had separate market centers and had no strong historical ties. As the program terminated, it appeared to disintegrate almost immediately. In Herkimer County the lack of historical ties led to a limited congealing of the program from the start. Finally in Blanco County, although the City of Blanco and Johnson City are the only two sizeable jurisdictions in the county, problems developed. These problems appear to go back to a "feud" which occurred at the turn of the century when Johnson City took over the role of county seat from the City of Blanco, which was the county seat at that time. This competition, believe it or not, lives on to this day.

- The provision of technical assistance appeared to have a positive effect on program performance. Two of the projects with the lowest ratings, Shelby County and the Utah Council on Criminal Justice Administration, chose not to receive technical assistance beyond the pre-grant assessment. It is of interest that these programs did not meet the RLE administrative requirements adequately, lacked the direction and focus of many of the RLE overall objectives and in other ways demonstrated limited performance. This is not to say the availability of technical assistance would not necessarily modify this situation but of the other jurisdictions that received technical assistance, overall ratings were generally higher. [Blanco County received the lowest rating but it did receive each of the technical assistance services. Both historical difficulties and a personality conflict between the mayor of Johnson City and the resident deputy led to this rating. Herkimer County also received a relatively low rating primarily because of the absence of local law enforcement resources.] Of the remaining projects that received the technical assistance, the general direction, activity and other program aspects were quite high.

- The ten project demonstrations may lead to much broader applications of the RLE process. In most cases it was too early to tell if the RLE program would have been assumed by the host agency and participating local jurisdictions. In two instances, however, the perceived success of the program was demonstrated. In Chautauqua County two additional resident deputy programs were under development. In Shelby County one additional resident deputy program was finalized. In each of these cases, the programs were to be funded through a combination of county and local monies. No federal monies were to be used.

Conclusions

In retrospect, the Resident Deputy/Trooper Program provided a significant amount of recorded information for any rural law enforcement administrator who is looking for alternatives or enhancements to a delivery system. The LEAA experience summarized in this paper provides a number of different approaches that have employed varying direction and emphasis. Yet, in most cases, each program provided positive direction and results.

While technical assistance and federal dollars were important in the development of these programs, it is my express opinion that the program models can be replicated in a local setting using local funds and expertise.

One significant result of the project is that it should provide rural practitioners with the knowledge that this notion has been "tested" in a variety of settings and that there is a base of data upon which to build a broader and more powerful model, one which may significantly impact the delivery of rural law enforcement service.

Editors' Notes

1. It is doubtful that the LEAA resident deputy/trooper model for improving rural law enforcement represents a universal prescription which is suitable for, or would succeed in, every American small town or rural setting. However, it is testament that there is a useful role for national and state decision makers to fulfill in bringing about improvement at the local level. Additionally, it makes a convincing case for the proposition that even when budgets are strained to the limit, other resources inaccessible, and the public ambivalent to the plight of rural law enforcement personnel and departments, a measure of creativity, imagination and willingness to experiment alone can bring about change and improvement.

2. One of the more popular organizational models which seems to have caught on in rural America is consolidation of police services. Perhaps the first rural consolidation program was in Riley County, Kansas, which is an interesting case since the program eliminated the office of sheriff. It is described by W.W. Childers in Consolidation of Police Service--The Riley County Kansas Experience - A Case Study, Southern Illinois University Center for the Study of Crime, Delinquency and Corrections, Carbondale, Illinois, 62901 (1977). This study might be particularly useful because of the detail and specificity in describing the people and communities of Riley County and the frustrations which led to the consolidation program as well as the elements of the program itself.

By comparison, Small Police Agency Consolidation - A Model Approach - A Summary of Findings and Conclusions, International Training, Research and Evaluation Council, 210 East Broad Street, Falls Church, Virginia 22046 (1978), suggests consolidation approaches on the basis of the findings of a survey of thirty-four small police departments which experienced consolidation. After presenting different approaches illustrated with case studies, a step-by-step process for determining costs and needs and designing a consolidation program is suggested. Guidelines for elements such as sharing costs, using facilities and equipment during the transition period and dealing with personnel and administrative concerns during transition are provided. The work should be greatly informative and useful to anyone seriously contemplating a consolidated approach to rural law enforcement.

3. Those who have had occasion to examine operations of small town police departments often suggest certain inherent advantages of that setting which a chief capitalizes on to improve the management of his department. One such excellent commentary is Clair Domonoshe's "Perspective: Administration of Small Municipal Police," in The Police Chief, Vol. 45, No. 5, pp. 62-67, May 1978. Domonoshe pays particular attention to the different kinds of access the chief has to the small community and ways of managing that access to increase credibility among other things, and instill a greater willingness among community members to cooperate with the department.

4. For a series of concrete guidelines on rural police operations, management and organization, see R.A. Zapke, Police Management Guidelines for Rural Communities, NCJRS Microfiche Program, Box 6000, Rockville, MD 20850. This manual covers the role of the police chief, internal department organization, line activities, manpower staffing and utilization, personnel policies, records, police planning and police-community relations, all within the context two particular problems--department size and restricted budgetary resources.

CHAPTER VI

SPOUSE ASSAULT: A COMMUNITY APPROACH

by David R. Yoder

This paper outlines the history of the spouse assault issue in Michigan with the hope that some of the successes and failures encountered there and the methods which resulted may be of some use to others. I believe there is merit in presenting the Michigan story as a model because it is generally perceived to be one of the more progressive projects. The paper has special relevance for rural communities because in rural Michigan we face problems almost identical to those in other rural areas.

The first and sometimes most difficult task for any person or group addressing the problem of spouse assault or domestic violence is to define the terms. What seems simple to define becomes more difficult as an understanding of, and involvement in, the issue grows. As an example, the Michigan Citizen's Advisory Task Force, established by the Special Joint Legislative Committee on Spouse Abuse of the Michigan Legislature, chaired by Representative Barbara-Rose Collins, devoted a significant amount of its energies to definition of terms. This Task Force included twenty-eight of the state's foremost experts on the topic of spouse abuse and yet a consensus as to its definition was not quickly attained. The definition of a victim of domestic violence which was adopted and appears on page 16 of the "Report from the Special Joint Legislative Committee on Spouse Assault" (Michigan Legislature: submitted June 12, 1978) reads:

> A person who has been assaulted by her/his spouse or former spouse; or an adult person, or an emancipated minor, who has been assaulted by an adult person of the opposite sex with whom the assaulted person cohabits or formerly cohabited.

The Task Force and Special Committee went further in their definition by including a paper on spousal nomenclature which attempted to clarify to readers that: we were not addressing child abuse, i.e., parental assault of their legal children; we were not addressing assaults between homosexual couples; we were not addressing neighborhood fights; and also, we were not limiting the definition to legally sanctioned "marital" relationships. The primary focus of this definition is people who cohabit in a conjugal relationship. It is this one factor which is consistently found in spouse assault. It should be noted that we were only considering, for purposes of the above report and I am only concerned with herein, the physical assault defined by the assault and battery common law and/or state statues.

Specifically, both assault and battery are included when we discuss spouse assault. We used nonsexist language in our report and in our discussions. Clearly, statutory enactments must meet equal protection requirements. But generally, although there are divergent voices, it is believed that spouse assault is mostly a situation of male aggressor vs. female victim. Certainly there are cases in reverse, but they are generally thought to be few and, in my view at least, the dynamics probably differ. This paper, however, deals with female victims and addresses spouse assault from that perspective.

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I am going to resist a discussion of why spouse assault occurs, why it continues, or why victims remain in battering relationships. There is now a significant amount of material related to these questions. Some writings are clearly misguided and, therefore, I recommend reading the aforementioned report and especially "Profiles of an Assailant" and "Profiles of a Victim" by Dr. Cam Serum, Midland Mental Health Center, Midland, Michigan, and Sue Ashby, Director of Rape/Spouse Assault Crisis Center, Muskegon, Michigan.

Briefly, spouse assault is not an issue of masochism, it is not enjoyed or caused by the victim, it is not a problem the victim can solve alone and it is not a problem faced only by poor people, uneducated people, racial minority people, inner city or urban people. Spouse assault is as large a problem in rural settings as in urban areas. The same dynamics are present and, in fact, I believe are accentuated in rural America. For example, if isolation is a common denominator for victims, the rural victim can add physical distance and physical environment to the list of isolating factors faced by the urban victim. We know the lack of appropriate counseling, educational and police services impact upon the urban victim as well as we know these same services in rural settings are often even less qualified, trained and current. If family patterns are strong in urban families, they are even stronger in rural communities where change and divergent views are fewer and less imposing. The list can, and does, go on.

The basic building block of any comprehensive approach to this problem is a viable grass roots community organization. In every community there are people who have various levels of expertise, who care or can be led to care, who can apply their expertise or develop related understanding, who are community movers and shapers although frequently nonvisible, and who, when moved, will devote unlimited time and energy to a worthwhile endeavor which will effect change. Your job is to identify these people and sell this issue to them. Four or five people who are willing to work very hard and be publicly identified with the issue are sufficient. Another larger group of people who will deliver specific assistance on an irregular basis is also necessary. Naturally, it is best if you can pull your core group from areas where you have identified problems or needs, for example social and welfare services, mental health or counseling services, the legal community, citizens groups or law enforcement offices. These people will be invaluable in establishing liaisons and implementing change, and they will also give the project a certain amount of credibility. You will learn their own frustrations and limitations. One last point--these people exist in every rural community but because of overriding community standards or biases, they may be less visible or may even form a subculture or contraculture. Ask around--you'll find them or they'll find you.

Your next step is to educate each other. Many, if not all, of your people will have little knowledge and many misconceptions; there will be little understanding of the knowledge, concern, limits and apprehensions of your group. Try to explore these and talk them out without needlessly offending each other. Obtain all of the reading material and audiovisual material you can and share it. Lists of available materials can be obtained from the Michigan Domestic Violence Prevention and Treatment Board or from many other existing programs. Also contact other people who have been similarly involved for a period of time--most of us are more than willing to help and many will come to your area to help.

Your group should become an incorporated organization. While this often seems time consuming and frustrating, it is a mandatory step to a meaningful project and will be much less painful at an early stage. Your corporation will need by-laws, officers and the necessary state certification or recognition. You will also need to apply for a 501(c)(3) nonprofit, tax-exempt status if you intend to apply for LEAA funds or solicit contributions and funding from other nonprofit foundations. This whole process will force you to create a structure and put your purpose into words.

It is important that you make the most out of the energy and determination your group will have when you first start. One way to lose that early momentum is to allow your group to wander aimlessly and unguided from issue to issue. It is good to develop a strategy outlining your goals, objectives and plans for reaching them. You may want to set both short-term and long-term goals. This a a good time to divide responsibilities; a time table for meeting short-term goals is helpful.

Your primary goal presumably will be to provide services and assistance to victims of spouse assault. You may want to provide programs for children of involved parties and programs for the assailants. The delivery of support services to individual victims, especially in crisis situations, requires personal involvement--you will not be able to effect change by a pamphlet or public relations campaign. Most programs have developed some type of "victim assistant," those who make first contact with the client either by hot-line, police request, agency request, relative or neighbor. They will be primarily involved in coordinating support services and working with the victim toward an understanding of the various systems and a realization of the goals set by your group. Clearly these people must be trained and they should be trained before they come into contact with the public.

It is imperative for the program to develop and implement some form of emergency shelter capability. You must be able to offer the crisis victim (and I believe her children) a safe place to recuperate from which she can safely locate and investigate alternatives. Most projects have begun with some form of nonreimbursed volunteer, private home. You must provide the hosts with training; they will generally have little understanding of the dynamics of spouse assault and, therefore, may give some very negative messages unless educated. It is also helpful if your group can obtain food supplies the victim can take with her so she does not feel like an imposition. You may wish to consider the possibility of paying hosts but I encourage you to approach this carefully due to the questions of liability and licensing requirements in your state.

I believe, and it is the position of the Michigan Domestic Violence Board, that the best form of shelter is a formal, established house set up for the sole purpose of providing shelter, related services and advocacy for victims and their children. The reason for this preference is primarily so the project can provide better security and focus all appropriate services in an effective and efficient manner. The Michigan Board, when funding local shelters, considers the services to be provided. Programs are expected to provide crisis and support counseling for victims and children, emergency health care services, legal assistance, financial assistance, housing assistance (both emergency shelter and help in locating permanent housing), transportation assistance, child care services and community education. Michigan statute requires that to receive funding, a project must provide at least three of these services. They may be provided by liaisons and agreements with outside agencies where the project advocates for the client as necessary to ensure services. Any project which truly is committed and knowledgeable will provide most, if not all, of these services.

Regardless of whether you are operating a volunteer shelter or a formal shelter home, it is my belief that you must provide housing for both the victim and her children in the same location. Victims simply will not leave their children and in most jurisdictions it is important, in the event a custody fight develops, that the mother's custodial control not be broken. Additionally, the children frequently will benefit from the shelter environment and philosophy, and may themselves need concentrated counseling.

Your project must become public knowledge at some point. I have saved this discussion until now because I believe it is vital that you have services ready before you announce your project to the public at large. Remember the spouse assault victim has run into roadblocks at every turn: the police have refused to "interfere," counselors have reinforced her guilt, relatives have cringed, clergy have told her to pray, etc. You will simply join the list, maybe as the last straw, if she calls you for help and you tell her that you're not quite ready.

A public forum with well-orchestrated media coverage and an "outside expert" as a featured speaker can be a highly successful start. I suggest recruiting someone outside your area because you will probably not have local people with credible expertise and, additionally, because it's hard to be an authority of note and interest to your neighbors. Place special emphasis on getting focus groups to attend your forum. By focus groups, I mean those people who deal with or should be dealing with the problem, such as social services workers, counselors, doctors, nurses, lawyers, judges, clergy, educators, women's groups and funding sources.

Announce your program at this forum. Educate the audience to the problem and specify exactly what you are now doing and what you intend to do in the future. If you are using volunteer shelter homes and are looking for that ideal twenty-room house, this is the place to say so. This is also the place to cite problem areas in your community. Try not to personalize your attack but indicate system deficiencies. Law enforcement is almost always a problem but if you can show some understanding of the real statutory and procedural problems police face while stating clearly where the police fail in their function, you may not start out with a hostile police force. Your audience will also want local statistics and you probably won't have any. Instead, you need to have a thorough understanding of your community and national statistics and estimates. Many of your agency members will be able to report how frequently they encounter spouse assault problems.

The forum is the "coming out" ceremony and, hopefully, the first part of an extensive community education effort. This is necessary to reach victims and force people to accept it as a legitimate problem. You will find great reluctance to accept statistics. Initially, few will believe the dynamics of why it happens and why women stay. You must continually open the closet. Your educational efforts must also highlight positive accomplishments to convince victims and aggressors as well that help is effective and available.

You must also continue to keep pressure on the various agencies and individuals who affect the problem. Improvements in attitudes, systems and services will dissipate unless reinforced. You will need to continually improve your staff and upgrade your competence. In initial organization, it is hoped that you obtained guidance from other programs; keep in touch with them to share experiences and new ideas.

The next step in a total approach to spouse assault is to form a state coalition of all independent, small community groups. Most of the agencies and service providers with whom you will be dealing have a state organization, state department or state licensing agency. The most effective way to effect change is from the top. A state coalition has credibility and political clout, and it can create funds and concentrate its efforts on top-level offices. It can also develop a statewide strategy and advocate it with a strong voice.

This coalition can then begin work on legislative change. In most states there are laws covering arrest procedures, misdemeanor crimes, husband and wife "privileges," injunctions, etc., which work against victims. Additionally, many states have not recognized spouse assault as a problem and, therefore, have not established programs to deal with it. More importantly, legislators have not provided funds to help the problem; state funding is vital to rural projects as they are least likely to have local resources.

The process in Michigan was basically as stated above. A coalition developed. Sympathetic legislators introduced bills. A citizens' advisory task force brought together a cross-section of Michigan experts. A report was provided to the legislature and specific recommendations were made. Legislation was passed changing arrest provisions, strengthening injunctions, providing statistics and creating the Domestic Violence Prevention and Treatment Board. The Board was appropriated one million dollars to fund shelter projects, research and development, education and training.

My experience in this process leads me to make several suggestions to rural advocates. In most states the greatest level of project development, as well as the greatest amount of political clout, will exist in urban areas. You must fight to be certain rural concerns are addressed. For example, money should be spent to achieve geographical balance--not based totally on population. Rural concerns such as transportation, local monetary and service deficiencies must be addressed. For example, any state grant requiring a local match will be tougher for rural projects. Also if the state doesn't fund project staff training, this will take a disproportionate share of a rural budget because training facilities and expertise are likely to be further away, requiring costs of travel and lodging. If a state board is created, work hard to insure a geographical balance in board membership. This is the only way to insure a continuing voice which is necessary because urban centers will be constantly working for greater control.

Legislation is difficult to deal with. If you have a legal services advocacy office, use it. It is important to understand the whole legislative process. I have learned that it is imperative to impact on the specific language of proposed and final legislation. The Citizens' Advisory Task Force was dissuaded from concentrating on statutory language and we must now try to make changes. A statute which says that a judge "may" issue a certain type of order is significantly different from a statute saying "shall" issue. Ambiguous language gives judges, lawyers, prosecutors and police, for reasons of avoiding the issue or avoiding work generally, the opportunity to refuse to implement change or to disrupt the intent in some manner. You should presume that every system will oppose change and will resist serving victims unless compelled to do so. This position becomes more understandable when one realizes that these systems are dominated by men of whom we can estimate thirty to forty percent assault their conjugal partners.

This how-to spouse assault approach may sound improbable or even impossible. It is not. It has been done. However, if Michigan is the forerunner or leader in this area, then it is merely a yardstick for measuring what still must be done. This problem is not going to go away. Michigan will barely make a dent in addressing the problem in fiscal 1979 even though we will have spent one million dollars, funded fifteen or more shelter programs, funded and assisted research, development, education, training, and worked with or on every service provider system in the state. However because the problem is tremendous, it does not mean we can ignore it. If we believe the family unit is the basic unit of civilization, as I believe we do, then we must prevent or alter the course of ever-increasing family violence because the family cannot function as a battleground!

Editors' Notes

1. Because of the tremendous economic, demographic and attitudinal diversity of rural areas from one end of America to the other, rural advocates are always quick to caution against reliance on "model programs" in all locations. Yoder's walk-through of the Michigan approach should be complemented by mention of additional elements or differing points of view endorsed elsewhere in the spousal abuse literature. For example:

> . . .Yoder indicates the Michigan definition of spouse abuse is confined to physical assault despite ever-increasing evidence of the considerable mental suffering associated with spouse abuse. Further, one logically can wonder whether a program can have any chance of becoming preventive if not prepared to deal with problem situations before they get to the physical assault stage.
>
> . . .Yoder suggests that instances of male abuse are few and, in all likelihood, result from different dynamics. Whether this is indeed the case has been vigorously questioned. In fact, recent baseline research by Murray Strauss, University of New Hampshire, shows signs of revealing that the number of male victims in severe battering cases is considerable.
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> . . .Michigan appears committed to the idea of a formal, established house as preferable for providing shelter and services. Others have noted that the high visibility of such a facility often can be counterproductive. And since many rural communities simply do not have that possibility, it would seem wise to encourage greater creativity, imagination and experimentation in order to discover promising alternatives rather than to insist on a formal shelter.
>
> . . .Finally, rural law enforcement officers are characterized as "almost always a problem." While they frequently may not be very effective in dealing with spouse abuse situations, the fact remains that in rural areas law enforcement is the lead agency in dealing with spouse abuse and must be enlisted in any program. Accordingly, it's important to take great care not to be antagonistic toward or overly condemning of rural law enforcement personnel. Remember they are being asked to get involved in a problem they're rarely equipped or trained to deal with in the first place, through no fault of their own. A wiser approach would be to use diplomacy in tackling problems encountered with these officers mindful, after all, that you must work with them.

2. On the other hand, from what the literature to date reveals about rural spouse abuse programs, the following elements of the Michigan approach should be underscored:

> . . .Perhaps the single greatest obstacle to rural programs is the physical isolation from services and facilities by people in need. The very real "space and distance" problems of rural America must be recognized and addressed if success is to be achieved.

. . .A viable grass roots community organization is critical. Furthermore, many would assert that the service providers on this level must be professionals. It does no good to attract a victim to such a shelter only to find no one has the training or experience to deal fully with his or her particular problem.

. . .In building a grass roots organization, it is important to locate the "power" people in the small community. Who gets things done? Who is respected? Experience tells us such persons are not always visible at first glance but it is imperative they be sought out and recruited.

. . .Legal incorporation of the community organization is important. This move builds credibility but, more importantly, is dictated by financial realities stemming from potential legal liability attendant to providing services.

. . .In setting goals, every effort should be made to be realistic. Success will maintain and build enthusiasm and commitment, while failure can quickly lead to apathy and discouragement.

. . .Services cannot be provided without public education and public education cannot be meaningful without services. This is a symbiotic relationship. Programs should not arouse interest in or promise what cannot actually be delivered. In the last analysis, a good heart is not enough--training and competence are required.

. . .With federal funding for beginning projects virtually eroded, state funding is now critical to rural programs.

3. It usually proves to be a very difficult task in working with spouse abuse victims to acquaint them with and get them to face the nature of their problem and its consequences. On the basis of her experience as director of the Nebraska Task Force on Domestic Violence, Karaline Schmidt has concluded this difficulty is attributable to an often overlooked dimension of one's reaction to a spouse battering or abuse situation--grief. She believes that perhaps more important than the anger, fear and pain resulting from such a situation, is one's genuine grief over the shattering of the images of home and family, just as one would grieve over the death of a friend.

Schmidt asserts that in dealing with this grief, we progress through three major states--denial, anger and acceptance--though perhaps not in a straightforward way. This view provides new insight into why people often exhibit hostility when acquainted with their problem (denial) and the intensity of emotions in dealing with it (anger). If correct, Schmidt has more vividly demonstrated why it is important for the abused and their advocates to understand that when they finally experience acceptance, it still will be accompanied by pain and sadness but that this is normal and should be expected.

4. Currently, perhaps the best information clearinghouse on domestic violence or spouse abuse is the Center for Women's Policy Studies, 2000 P Street, N.W., Suite 508, Washington, DC 20036, (202) 872-1770.

PART II

Section II. RURAL COURTS AND THE LEGAL PROCESS

Introduction to Section II

We next turn attention to the heart of the rural criminal justice system: the court. Not only are the ultimate decisions as to the outcome in any particular case made here, but here also rests the authority to oversee and thereby overrule the day-to-day decisions and operations of practitioners found throughout the system.

While the courtroom may be the ultimate arena of the rural criminal justice system, it is important to realize that what happens there is the product of a process begun long before the judge first faces those offenders brought before him or her; this process hereinafter is referred to simply as the legal process. The entire legal process is the responsibility of the judicial branch of government and it is probably safe to say that our general familiarity and knowledge about the judiciary system is considerably less than with the executive and legislative branches of government no matter what the geographical setting might be. Thus, we are particularly fortunate that the legal process in the rural environment has attracted the interest of Professor James Eisenstein of Pennsylvania State University.

Eisenstein leads off this section with a presentation that sets forth some of his hypotheses and conclusions concerning rural criminal justice and the legal process. Essentially he walks us through the rural criminal legal process using as a frame of reference a nine-factor analytical model which reveals the different influences and pressures that shape that process.

Two questions are of particular interest to Eisenstein: (1) the degree of permissible discretion exercised by the decision makers throughout the system; and (2) the role of the legal process in maintaining or altering the status quo. However, the concluding portions of his work suggest a variety of other important implications that would flow from a better understanding of the rural legal process. One of these is that the benefits of a greater understanding of this process will not accrue to rural America only but to the urban criminal justice system as well. This theme is echoed by Ted Fetter in his presentation, in Chapter VIII, "In Search of Models for Court Operations in Rural Areas."

Fetter's background reveals long-standing interest in the nature of rural courts, their strengths and weaknesses, and their possibilities for improvement. While serving as staff associate with the National Center for State Courts, Fetter had a front row seat from which to observe and participate in the emergence of contemporary notions of court reform and improvement. In his present position as court administrator for the State of Wyoming, he has been able to complement his policies and goals experience with an appreciation of the practical considerations encountered in their implementation. The focus of Fetter's presentation is on operation models for courts in rural areas. Appreciating the distinctiveness of rural courts which has both positive and negative implications, Fetter raises several thoughtful questions about the usefulness or propriety of models, particularly those models which encourage adherence to national standards. Fetter concludes his presentation, as did Eisenstein, by strongly suggesting that a better understanding of the elements of effective and efficient models for rural courts is likely to accrue to the benefit of urban court systems as well.

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Underlying our national concern for and commitment to improving the American criminal justice system is the goal of guaranteeing basic standards of fair treatment for individuals brought in contact with the system. These basic standards sometimes evolve over time and sometimes overnight, and unique challenges and problems can be attributed to each of these evolutionary patterns as the two final presentations demonstrate.

One of the principal elements of American criminal jurisprudence is an accused's right to legal counsel. In 1963 the U.S. Supreme Court sent shock waves throughout the criminal justice community with a ruling requiring that state or local governments provide counsel to indigent persons even in non-capital felonies. Since then, indigents' right to counsel has been expanded even further by the Court's mandate. Howard Eisenberg, executive director of the National Legal Aid and Defender Association, details the profound impact of these decisions on rural court systems in "Criminal Defense in Rural America." His captivating treatment assesses the response of rural jurisdictions to the difficult challenge ushered in by court order, their capability of responding and acceptable alternatives within that capability.

Finally in "Rural Pretrial Services," Stephen Wheeler, director of the statewide Pretrial Services Program of the Kentucky Administrative Office of the Courts, examines a concept that has not yet been nationally mandated but is being championed by many national criminal justice reform advocates. No doubt the commitment of Kentucky from the outset to provide such professional services on a statewide basis enhanced the program's chances for success. However in Wheeler's presentation we see signs that much of the success is traceable to local factors. In fact, Wheeler states that it has been the decentralized structure of the program which allows local judges a voice in hiring decisions and assures local advisory input into program decisions that has helped bring about its success in rural areas. Hopefully the Kentucky experience is evidence that even where statewide administration and resources are not available, improved rural court systems are still possible if there is a local commitment in principle and a willingness to experiment creatively and capitalize on the existing resources.

CHAPTER VII

RESEARCH ON RURAL CRIMINAL JUSTICE: A SUMMARY

by James Eisenstein

This paper attempts to summarize what existing research tells us about how rural criminal justice systems operate, why, and with what effect. While the paucity of research on rural society generally and its legal process in particular somewhat limit the comprehensiveness and richness of any such summary, enough is known to produce an assessment of the current state of knowledge and to draw some conclusions that can contribute to the growth of the embryonic movement to study the justice system in rural communities.

No doubt what we've learned from studies focusing upon metropolitan centers such as Detroit, Chicago, Los Angeles and San Diego can be transferred to certain aspects of, and seem to be shared by, rural criminal justice systems. For instance, existing research describes the role played in shaping the criminal process by statutes, case law, state-mandated administrative structures and procedural rules, and the functions delegated to judges, defense counsel, and prosecutors. However in the following pages the emphasis will be on the distinctive characteristics of the "rural" criminal legal process.

I acknowledge from the outset the readily apparent lack of any generally accepted definition of "rural." My selection of a definition reflects our interest in the rural justice system and legal process, and centers around the notion of "legal jurisdiction"--that is, the population and territory falling within the formal control and authority of state trial courts. Specifically, state trial courts serving a population of 100,000 or less constitute the group of jurisdictions whose characteristics I want to summarize. A close look reveals that in most states, single county judicial districts which would be rural by any definition and the multi-county districts found frequently in the West typically serve fewer than 100,000 people.

I believe this fairly straightforward definition avoids the "what is rural" debate. While the various research works reviewed hereinafter utilized different definitions or failed to reveal which one was used, nearly all of the settings described would be encompassed by my definition.

This is not to overlook the significant diversity of rural judicial districts. Rather, we concentrate on the several common crucial characteristics that justify placing them in a single category: they contain a single judge (or at most two) at the trial court level; the prosecutor either works alone or has at most two or three assistants; the number of private attorneys typically ranges from a mere handful to only forty or fifty. The number of cases

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handled yearly numbers in the hundreds (if that), not in thousands. Thus, this essay focuses more on "small" than on "rural" jurisdictions.

Detecting and evaluating their distinctive characteristics is more disciplined and easily understood by reference to a general model of the legal process. Such a model is helpful in providing a "checklist" of topics to consider, permitting us to identify subjects not treated in the literature and establishing a logic to the order in which findings are presented. I have depicted such a model in Figure 1 (on the following page) which generally applies to the legal process regardless of jurisdiction size.[1]

The nine elements of the model all contribute to the explanation of case outcomes--the day-to-day results of the operation of the rural justice/legal process--beginning with the most general and fundamental factors located in the left portion of Figure 1 and proceeding to factors increasingly proximate to actual courtroom decisions. A brief narrative explanation of the model is required since the literature review that follows is based upon it.

The model assumes that several crucial characteristics of the general environment (factor one) fundamentally structure and shape the functioning of the legal process. The social and economic structure, the nature of the political system and the beliefs that underlie it, the characteristics of the populace and the physical features of the land they inhabit, and the nature of the criminal incidents that arise all influence the other elements in the model. Factors two and three, the recruitment process and the expectations held about how the legal process should operate, flow directly from the general characteristics included in the first factor. Together, these three factors determine both the structure, resources, and policies of what I call "sponsoring organizations" and the attributes of the task environment which these sponsoring organizations confront (factors four and five).

By "sponsoring organizations," I mean the organizations that recruit, pay, supervise, and in essence function as the "home office" for those participating in the rendering of decisions in the courtroom. The principal sponsoring organizations in criminal cases, for example, consist of the prosecutor's office, the public defender's office, and the judge's organization. They "sponsor" in the sense that they send the principal participants to the courtroom.

Beyond the obvious influence of the general environment, the recruitment process and local legal culture (the first three factors in Figure 1) of sponsoring organizations, we can specify in greater detail elements in their immediate environment that impinge directly on their behavior. These factors which constitute the "task environment" are enumerated under factor four in the model. For example, the district attorney's office policies depend (among other things) on the size of the case load, the pressure to move the docket (shaped by bail policies, the size of the jail and so forth) and the nature of political pressures to "do something" about crime.

Together, sponsoring organizations and their task environments shape three sets of factors (six, seven, and eight in Figure 1) that impinge directly on courtroom decisions: the personal values, attitudes, and role perceptions of principal courtroom actors; the specific characteristics of the case and defendants; and the structure and goals of the "work group" handling the

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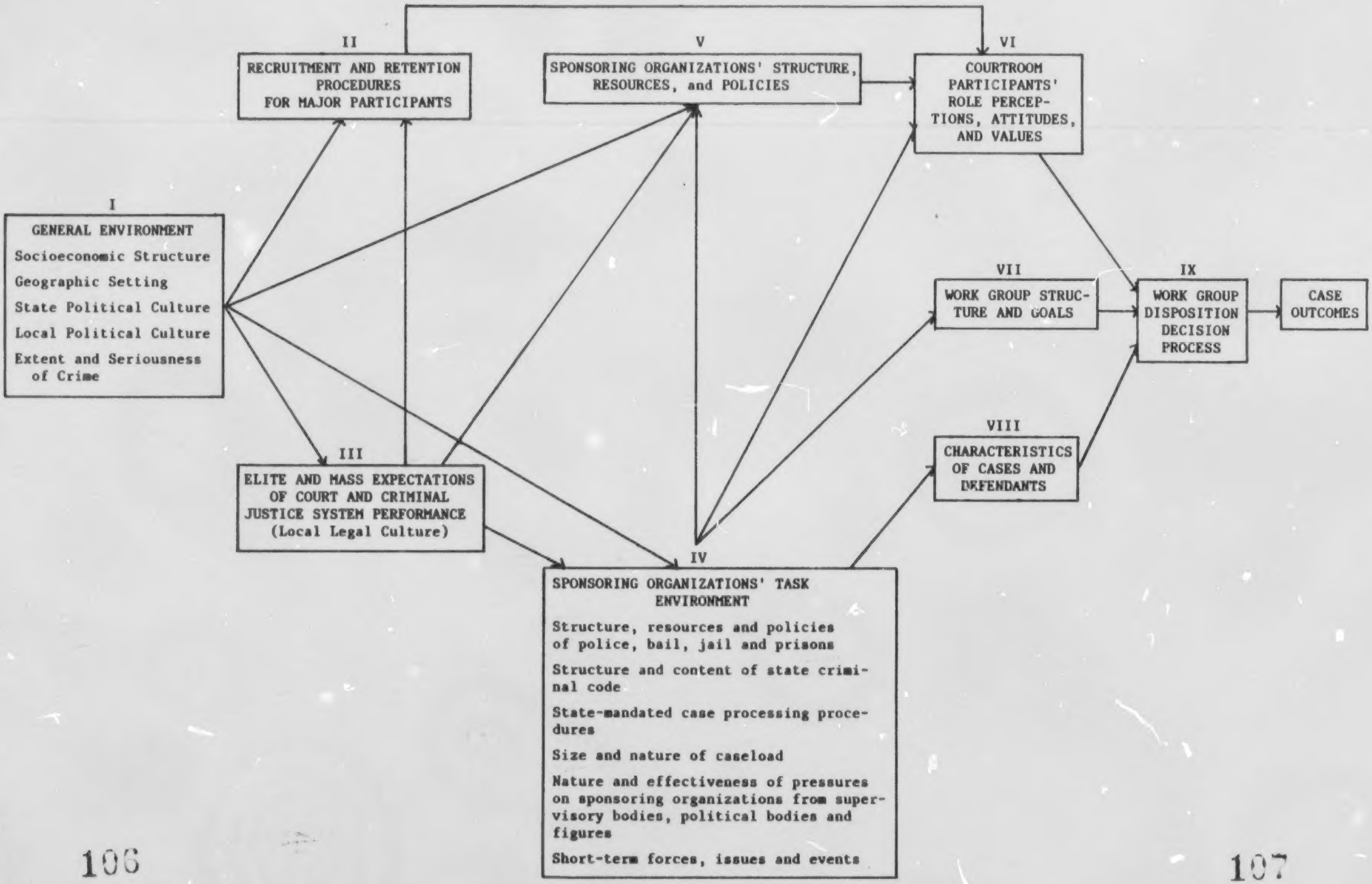
FIGURE 1

Schematic Overview of Principal Variables and Their Interrelationships


I
GENERAL ENVIRONMENT
Socioeconomic Structure
Geographic Setting
State Political Culture
Local Political Culture
Extent and Seriousness of Crime
II
RECRUITMENT AND RETENTION PROCEDURES FOR MAJOR PARTICIPANTS
III
ELITE AND MASS EXPECTATIONS OF COURT AND CRIMINAL JUSTICE SYSTEM PERFORMANCE (Local Legal Culture)
IV
SPONSORING ORGANIZATIONS' TASK ENVIRONMENT
Structure, resources and policies of police, bail, jail and prisons
Structure and content of state criminal code
State-mandated case processing procedures
Size and nature of caseload
Nature and effectiveness of pressures on sponsoring organizations from supervisory bodies, political bodies and figures
Short-term forces, issues and events
V
SPONSORING ORGANIZATIONS' STRUCTURE, RESOURCES, and POLICIES
VI
COURTROOM PARTICIPANTS' ROLE PERCEPTIONS, ATTITUDES, AND VALUES
VII
WORK GROUP STRUCTURE AND GOALS
VIII
CHARACTERISTICS OF CASES AND DEFENDANTS
IX
WORK GROUP DISPOSITION DECISION PROCESS
CASE OUTCOMES

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case. The term "work group" refers to the combinations of key decision makers who interact with one another in the courtroom to produce dispositions. In felony cases it consists of a judge, prosecutor, and defense attorney, with the occasional participation of a jury. Characteristics of work groups such as the familiarity of its members with one another, the frequency with which they interact to dispose of cases (stability) and the degree and direction of agreement on how cases should be handled, profoundly shape decisions made on cases.[2]

With this model as a frame of reference, we can get a good glimpse of the rural criminal justice system by reviewing existing research and knowledge pertaining to the nine factors of Figure 1.

A Summary of Existing Research on the Legal Process In Small Jurisdictions

Factor I: The General Environment

Social and Economic Structure

Many who have written about rural justice assume that Americans hold a number of stereotypes about rural society, chief among them is substantial homogeneity in its social and economic characteristics. Since social and economic structure provide the basic foundation upon which the legal process rests and functions, such homogeneity would have profound implications for the analysis of small jurisdictions' distinctive characteristics. The literature on rural justice, however, reflects a growing realization that America's hinterlands run the gamut from the homogeneous to the heterogeneous, and that the resulting mix probably differs little from that found in urban areas. Of course, entire counties in some regions dominated by a single interst (such as farming) may exhibit substantial homogeneity, as may some small towns in more diverse areas. But the dominant theme seems to be that of diversity, not only between counties scattered throughout the country but within them.[3]

The existing literature contains a number of assertions and partial statistics as well as impressionistic observations describing the social and economic structure of rural areas. I have selected several of the most crucial general characteristics that I believe emerge from descriptions of the social and economic characteristics of small jurisdictions.

First, they are less well-off economically. Census-based figures on income show nonmetropolitan areas contain disproportionately high numbers of the poor (and the elderly poor).[4] The nonmetropolitan poor receive fewer social services[5] and federal and state assistance formulas shortchange rural areas by failing to account for higher delivery costs.[6] Less general wealth produces a proportionally smaller tax base providing fewer resources for government to fund all functions including the legal process.[7]

Second, the rural economy is diversified with agriculture playing a declining role. As agricultural employment figures have gone down, employment in manufacturing has increased.[8]

Third, social relations in the small towns that dot the rural landscape are characterized by intimacy, familiarity and high visibility.[9] This describes social relations among the political, social, and economic *elite* particularly. Since members of the politically relevant strata tend to live and work in towns (often the county seat), the characteristics of high visibility of behavior, homogeneity, interdependence, cooperation and familiarity characterize their interaction more than they describe either the general population in small jurisdictions or the political strata in metropolitan areas. In fact, intimacy, familiarity and high visibility may not describe social relations among the general population in rural areas well at all, especially where many impoverished minority group members live in isolation in the countryside.[10]

Political Structure and Culture

One thoughtful observer has argued persuasively that the relationship of the size of constituencies to the distribution of political power touches a central concern in American political thought and practice and has remarked, "One could reasonably expect to find a substantial body of discussion directed precisely to the question of how constituency size affects the distribution of political power. But this discussion is meager."[11] While his thought may rest on a weak empirical foundation, its logic is sound. And the description of the structure of political power relative to small communties conforms fairly closely to that found in existing studies of rural justice and provides a convenient means of summarizing the dominant view. It is argued that as the size of a constituency diminishes, the likelihood that a single interest (for example, dairy farmers in upstate New York or the oil industry in Baton Rouge) concentrated in that area will be dominant increases. The less affluent and politically impotent segments lose influence as the dominant interests gain it.[12]

The diminished influence of subordinate groups stems in part from the absence of sufficient numbers of people and resources to organize and articulate their interests to the political system, but this is reinforced by the *informal* techniques used to resolve disputes and make decisions utilized in small constituencies.[13] Personal familiarity is high; the proportion of residents having personal relationships with members of the elite (especially in small towns) is substantial. Familiarity or lack of impersonality or anonymity, combined with economic dependence, facilitates informal coercion and intimidation and inhibits political activity.[14] The desire to avoid nasty confrontations with those one knows one will interact with on a regular basis in the future also deters the raising of issues that will be "controversial." Thus, both self-induced and external social pressures add their weight to tacit (and sometimes explicit) economic intimidation.[15] Accordingly, it is contended that the structure of political power in small units "accentuates any inequality in the distribution of power that would otherwise exist..."[16]

Despite the paucity of research directed explicitly toward the relationship between community size and patterns of leadership and influence, examination of the question by looking at community power studies provides some empirical support for the pattern just described. Swanson's *Small Towns and Small Towners* summarizes the findings of C.W. Gilbert who examined a number of such studies:[17]

1. The larger the size, the more likely the power structure is pluralistic; obversely, the smaller, the more likely concentrated.

2. The larger the size, the greater is the participation of politicians in carrying out community political functions and obversely, the smaller, the more likely inactivity.

3. The larger the city, the less controlled the community conflict.

4. The larger the size, the greater the number of events that become "issues," the greater the number of public-policy decisions, the greater the role of technical expertise as one moves from one decision or scope to another.

These patterns of political influence have important implications for the legal process in small jurisdictions. Particularly significant is the fact that even where social, economic and cultural diversity exists, groups representing the minorities and less affluent less often organize and make demands in the political system than they do in similarly diverse but larger jurisdictions.[18] Thus, the structure of organized, effective pressures exerted is less developed than in urban areas.

Three other factors contribute to the patterns of inequality in the distribution of influence and low participation in rural areas. First, people living in unincorporated areas often have no single geographically convenient governmental entity upon which to focus political demands. County government is remote both geographically and conceptually for many. Often various governmental services to such people are provided by agencies with different geographical bases. Police protection comes from the county sheriff or state police (or both); school services from a different geographical entity; and other services from special districts (sewer, water, fire) or townships. This fragmentation and remoteness complicates and frustrates the mobilization of cohesive concern and activity. In many metropolitan areas, at least some immediate and visible targets for criticism (or sources of loyalty) exist to help entice people into political activity.[19]

Second, the media perform less of a "watchdog" role in uncovering problems,[20] publicizing expressions of dissent and reporting on conflicts. Newspapers in particular tend more to reflect the views of a cohesive establishment elite. Thus, there is little communication of information that facilitates the organization of dissenting views and minority interests.

Third, those staffing key decision-making positions in the legal process, the welfare system and elected bodies are few enough in number to know each other personally. Familiarity is reinforced by the frequent physical location of their offices in the same town (the county seat) and their common status as members of a well educated and socially prominent elite.[21] Familiarity facilitates the use of informal techniques to make decisions and resolve disputes, further inhibiting participation by nonelites.

To what degree public attitudes in the hinterlands differ from those of other areas is not fully known but fragmentary findings exist. Some opinion surveys find that rural residents express more conservative views on women's rights issues, abortion, sex education, and the desirability of bible reading in schools; they less often admit to having seen an X-rated movie; they more often disapprove of premarital sex; they more frequently disapprove of protest meetings, marches, sit-ins, and demonstrations.[22] The differences are not large but a consistent pattern emerges: the smaller the place of residence, the more conservative the responses of its inhabitants. Differences between farmers and other occupations are larger; hence, the more agricultural a jurisdiction's population, the more conservative it is likely to be in its political beliefs.[23] Finally, some assert that established elites in rural areas are generally conservative politically.[24]

Studies of rural justice describe several other distinctive attributes of the political beliefs of country folk. These include: more punitive attitudes toward "outsiders" and discriminatory attitudes based on race, sex, religion, and ethnicity;[25] distrust of higher levels of government (state as well as federal); and a feeling of deprivation, neglect and abandonment by the rest of society.[26]

Prior research on urban criminal justice systems suggests a link between political beliefs and structure and case outcomes,[27] but the relationships have not been clearly delineated. We do not know if the overall differences in structure and attitude in small as compared to large jurisdictions are great enough to produce distinctive patterns of case outcomes. But the fact that most of the crucial participants in the legal processes of small jurisdictions live and work in small towns suggests they might. For it appears that elites in America's small towns typically hold conservative political beliefs, rely on informal techniques to resolve disputes, and seek to avoid or to bury conflict.

Geography and Population

Obviously geography distinguishes small jurisdictions from large. By definition, they are more sparsely populated (less than 100,000). The territory encompassed is large. The 31.4 percent of the population living outside Standard Metropolitan Statistical Areas occupy about eighty-nine percent of the nation's land.[28] Consequently, the population density of most small jurisdictions is quite low. But after many years of stagnation or decline in the population, the trend is reversing with much of the increase attributable to the immigration of newcomers.[29]

A simple awareness of these facts belies their importance for our discussion. Small population facilitates (but does not guarantee) the development of a high level of familiarity among residents. Even where other factors (topography, population density, the severity of social and economic cleavage) tend to lessen this degree of personal familiarity, the likelihood that the small number of people who constitute the elite will know one another intimately is great.

Low population density produces a dilemma of how to provide services over long distances. Decentralization facilitates accessibility but often results in too little volume to employ full-time staff or utilize space and equipment economically. Qualified personnel are less likely to live near decentralized offices and even less likely to accept part-time work if they do. Thus,

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increasing accessibility by decentralizing decreases efficiency and quality; concentrating services in central locations where more qualified personnel can be used more efficiently reduces accessibility. This dilemma affects the organization of lower courts, legal services for the poor and policing.

Futhermore, low density population has implications for providing police services regardless of whether a jurisdiction relies on a single centralized sheriff's department or a number of small departments. Population is often too sparse to justify regular patrols.[30] Fewer "public places" easily scrutinized by the public exist.[31] Citizens must summon the police. The cost of meeting such requests forces law enforcement agencies to ration responses carefully.

Finally, low population density coupled with large distances to urban centers contribute to a certain degree of actual and perceived isolation. Improved transportation and communication (including cable TV) undoubtedly reduce isolation but they cannot eliminate it entirely.

The Nature of Potential Criminal Cases

The nature and extent of rural crime comprises one of the basic factors determining the criminal case load (though citizens' willingness to call the police and press charges, and the availability, skill, and arrest policies of rural law enforcement officials also play a major role). The literature examined produces widely shared views of the nature of rural crime.

First, a number of sources argue that the overall crime rate is lower. While most rely on FBI statistics showing "crimes known to the police" in rural areas, recent victim surveys also provide evidence that rural residents experience less crime.[32] Actual rates of arrest for the more serious "index" crimes also vary substantially by size of place: the smaller the population of the jurisdiction, the lower the arrest rate for these crimes.[33]

Second, the composition of crimes reported and arrests made differs. FBI figures show that violent crimes occur less often in smaller places and petty offenses predominate. Studies of narrowly circumscribed geographical areas confirm this view.[34] Third, crime statistics not only show rural crime is increasing but that the rate of increase exceeds that found in larger jurisdictions.[35] Finally, important differences emerge in the characteristics of arrestees in smaller jurisdictions. They typically are not career criminals; they usually work alone rather than as part of an organized gang; they lack sophistication and calculation in the commission of their crimes; and they do not consider themselves to be criminals.[36] We can theorize that because the number of serious crimes "available" to the criminal process in small jurisdictions is lower and their perpetrators pose less of a threat to the safety and prevailing values of the community, such jurisdictions have the choice of either handling a smaller case load per capita or addressing a higher proportion of petty crimes.

However despite the consensus on the characteristics of rural crime, problems persist in assessing it. Statistical validity is more uncertain in small jurisdictions where undertrained and understaffed rural police agencies are less inclined and have less capability to pass on information about reported crimes. And victims may report crimes less frequently because of the remoteness of the agency,[37] a judgment that local law enforcement personnel can do nothing about it, or out of adherence to notions of self-reliance. Differences in crime rates between the small towns and surrounding countryside areas further complicate the picture.[38]

Factor II. Recruitment of Key Personnel

Finding qualified judges, prosecutors and public defenders is especially difficult in small jurisdictions. Small populations can support few attorneys to begin with and their propensity to gravitate to urban areas makes the shortage more severe. Additionally, numerous deterrents discourage them from seeking public legal offices.[39] An established attorney will usually take a cut in income if elected to a judgeship and experience increased travel and less office support (secretarial and clerical personnel, equipment).[40] Regarded as a "starting position," the typical part-time job of prosecutor or assistant prosecutor usually goes to new attorneys because experienced ones rarely desire it. The prosecutor's office offers young lawyers a steady if modest income which provides a foundation for building a private practice. It also permits the accumulation of experience and familiarity with the court community. However as the private practice grows and courtroom experience is accumulated, few reasons for staying in office remain. Rapid turnover in prosecutorial personnel results. High turnover also characterizes many large urban prosecutors' offices but the larger pool of available replacements makes the task of recruitment less difficult.

How does the recruitment process in rural jurisdictions work? A study of legislative recruitment in Oregon suggests an answer. More candidates were found to be "reluctants;" few people aspired to legislative office; an informal "consensus" candidate who often faced no opposition emerged from a process of informal, face-to-face communication.[41] That this pattern describes the recruitment process for judges and district attorneys in small jurisdictions receives scattered support. For example, the National Association of District Attorneys' Handbook for the Rural and Small Office Prosecutor notes the problem of getting competent attorneys to run for the office.[42] Jacob's study of elections for judges and prosecutors in Wisconsin found many elections uncontested.[43] We can speculate that the legal community in small jurisdictions often exerts a certain degree of coercion to encourage younger attorneys to "take their turn" as district attorney.

The characteristics of the pool of available candidates for judge and prosecutor, and the informal social processes involved in their selection probably leaves them with a distinctively "establishment" tinge. The children of the small, affluent community elite more often go to college and law school. The less adventuresome among them choose to return home rather than practice in a major urban center. Attorneys in small jurisdictions more consistently belong to the dominant social groups in the community and share the values, traditions and community life of established institutions and interests.[44] One study described the bar (and those among the bar who serve as judges and prosecutors) in a small jurisdiction as follows: "The most salient characteristic of the bar in other portions of the San Luis Valley and rural Colorado is that its members are solidly entrenched members of the establishment."[45]

These characteristics of small jurisdiction judges and attorneys have important implications for the quality of legal representation in criminal cases.

The low volume of criminal cases rarely permits anyone to specialize. Prosecutors come to the office inexperienced and have little incentive to become skilled in criminal work since there is scant prospect of translating those skills into significant income. Further, the time soon comes when they can afford to leave the office. For them and for private attorneys assigned to represent indigents, greater payoff lies in developing their private civil practices.

Assigned counsel also typically lack specialized knowledge of criminal law[46] and because of limited compensation are not rewarded for taking the time to do a conscientious job.[47] Increasingly, small jurisdictions are turning to the public defender concept to replace the assigned counsel system.[48] But the same problems of recruitment and retention that plague prosecutors' offices also affect public defenders. Lawyer recruitment problems, while not unique to small jurisdictions, are more formidable there than in large jurisdictions.

The literature also reveals distinctive patterns in the recruitment of law enforcement officers in small jurisdictions. Outside of the Northeast, sheriffs serve as the chief law enforcement officer in small jurisdictions. Unlike other law enforcement officers, sheriffs come to office by direct election. Normally they serve a four-year term and may be reelected.[49] In rural counties they rely upon personal and political connections, not professional police credentials and experience, as their chief qualifications.[50] Frequently a deputy will gain experience and run against the incumbent, encouraging sheriffs to hire their own relatives as deputies.[51]

Because the position is elective, sheriffs tend to be natives of the county, especially in rural counties.[52] Although sheriffs possess a reputation for being dominant political figures in their counties and enjoy long tenure, one survey revealed a surprisingly high turnover, especially in rural counties where the median tenure was only 2.8 years,[53] suggesting that sheriffs must be well attuned to electoral politics to survive.

Studies comparing the backgrounds of small town and metropolitan police have concluded that the similarities are more striking than the differences.[54] However small town police display somewhat less career mobility, less education and lower social status (measured by father's occupation).[55] The low pay and low status of both small town police and sheriff's deputies apparently contribute to high turnover,[56] poor quality, poor morale and few law enforcement skills.[57] Ward's summary of the small town officer's relationship to his community states: "It seems safe to assume that law enforcement officers in the rural community reflect the characteristics of the majority populace. Salaries and highly localized recruiting practices restrict the applicant pool for most positions to the immediate area."[58] Wasby's study of small town police in Massachusetts and Illinois generally supports this view but also provides good evidence of differences in the tenure and in the degree of integration with other law enforcement agencies between small departments in the two states.[59]

Factor III. Legal Culture

I apply the term "legal culture" to the prevailing beliefs about law and the legal process. More specifically, by legal culture I mean the pattern of individual attitudes and orientations toward the legal process among members of a legal jurisdiction which shapes and gives meaning to the legal process. In the following paragraphs I will discuss the distinctive attitudes and orientations for both the general public and the "legal elite."

The most striking component of the legal culture of the general public in small jurisdictions is the pronounced reluctance to get involved in the legal process. Pearson's impressionistic study of a small Colorado community uncovered widespread aversion to resorting to the law to solve problems.[60] Several authors claim people in small communities hesitate to call the police, hire an attorney, testify in court or render a guilty verdict.[61]

Several other characteristics of people who live in small jurisdictions lend indirect support to the "reluctance hypothesis." For example, general reliance on informal modes of interpersonal interaction can provide alternatives to formal legal action. A Denver Law Journal study describes the long-standing reliance of poor Mexican-Americans on trusted "confidants," people with whom they share an ongoing relationship and who essentially perform legal tasks.[62] It concluded that the "confidant" system was "surprisingly effective" in ameliorating some problems.[63] The Duke Law Journal described a similar system of reliance on an "agent" who intervenes on behalf of the black poor.[64] It is interesting to speculate how the use of "confidants" might co-exist with the belief among at least some rural poor (and perhaps the nonpoor as well) that one ought to handle problems on his own.[65] To the extent that small town and rural people are self-reliant and independent-minded, such traits would seem to reinforce an inclination to shun the use of formal and informal legal procedures to solve problems and to discourage the reporting of crimes and pressing charges. Unfortunately, existing literature fails to resolve the apparent inconsistency between the image of self-reliance and the use of intermediaries or confidants.

Another element in the general public's orientation toward law and the legal process deserves brief mention, if only to alert readers to its significance--the public's perceptions of what kinds of crime deserve the most serious treatment, thereby shaping the treatment those offenders receive from the legal process. Conservative attitudes may lead to support for tougher treatment of those charged with sex and drug-related offenses. Religious conservatism may encourage stricter enforcement of blue laws. Traditions of self-reliance and preference for handling one's disputes alone (maybe more prevalent in the West) may reduce the perceived seriousness of assaultive crimes. Crimes against property, on the other hand, may offend small communities more than other types of crime.[66]

The lack of hard data on the existence and impact of these and other public attitudes on the handling of criminal cases allows only the inconclusive speculation just presented. And even if distinctive (and probably harsh) attitudes about dealing with offenders do exist in small jurisdictions, it is not clear just whether (and how) they translate into more severe treatment of them.

Turning to the legal culture of the elite, scattered evidence suggests several distinctive elements in the attitudes of attorneys and judges in small jurisdictions. First, beliefs about what kinds of questions are appropriate for formal action restrict the variety of conflicts that come to court. In jurisdictions having few attorneys, all of whom partake of the social and economic life of the local establishment, suits are not often brought against governmental agencies or entrenched local interests.[67] Second, since many attorneys either represent local governmental agencies or own property, conflict of interest problems are frequent. By necessity, the bar in small jurisdictions must apply looser standards toward such conflicts. Furthermore, because of the familiarity that long-time residence and small populations produce, attorneys often know both litigants, their families, witnesses and jurors. If judges disqualified themselves whenever they had prior knowledge or a prior relationship with one of the parties, they could hear no cases whatsoever.[68]

Finally, small town lawyers may harbor more negative attitudes toward appellate courts and state judicial administrative agencies than their urban counterparts. This view is congruent with the general distrust of outsiders and experts by rural elites. The fact that appellate courts and state administrative agencies usually reflect an urban bias in both policy and perspective reinforces this view. Thus, skepticism of appellate courts' decisions and resistance to change imposed from above[69] likely constitute an important component of local legal culture in small jurisdictions.

Factor IV. The Task Environment of Sponsoring Organizations

Judges, prosecutors and attorneys representing clients everywhere confront a "task environment" that structures how they go about their jobs. As Figure 1 suggests, the characteristics of the task environment flow directly from the general environment, recruitment procedures and local legal culture. In the following paragraphs, I will summarize research findings on many of the key elements in the task environment found in small jurisdictions.[70]

Law Enforcement Agencies in Small Jurisdictions

A number of distinctive characteristics significantly shape the nature and behavior of law enforcement agencies in small jurisdictions including their size, the prominent role of the sheriff (except in the Northeast),[71] the tasks they perform and their relations with the local community.

Approximately 175,000 full-time equivalent law enforcement officers work outside of metropolitan areas.[72] Most belong to agencies that employ only a few officers; many work only part-time.[73] Thus, these agencies typically lack flexibility in the assignment of personnel. Personnel shortages prevent their coverage of the entire territory under their jurisdiction; it takes them longer to respond to calls for service. In some areas, no local law enforcement officers work at night or on weekends.[74] In general, rural departments provide only about one-half the protection in terms of available manpower that metropolitan police provide.[75] Additionally, they must work with small budgets which means a low salaried and poorly equipped workforce.

With only a handful of officers, many working only part-time, none specialize and expertise in any aspect of police work is rare. Significant obstacles exist even to participating in training programs.[76] Internally, these departments have a less elaborate hierarchical structure, fewer official rules, a shorter chain of command and greater informality in interpersonal interaction.[77]

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Roger Handberg, one of the few scholars to study rural sheriffs, observes that they are "critical figures in the rural criminal justice system because in so many rural counties, the sheriff (and his department) is the law."[78] Even in counties containing municipal police departments, the proprotion of all law enforcement provided by the sheriff substantially exceeds that found in urban counties. As the only police agency head to be elected, the sheriff is especially likely to be sensitive to the concerns of the mobilized electorate,[79] and to groups, individuals and institutions (for example, newspapers) thought to be important in the electoral process.[80] Chiefs of police enjoy no immunity from political pressures but pressures generated by public officials' concerns with how voters might react in an upcoming election are mediated by mayors, city councils and other elected bodies. Such pressures impinge on sheriffs directly. Furthermore, sheriffs often possess substantial political influence in their own right including a political organization based on patronage in the hiring of deputies and the contracting for services at the jail.[81]

A second distinctive feature of the sheriff's role rests in the frequent overlap of jurisdiction between his force and the municipal police, a situation that produces frequent conflict.[82] Third, nearly all sheriffs must divide their attention and manpower between law enforcement and running the county jail creating a difficult dilemma: if they assign adequate manpower to the jail, they must eliminate patrols or raise the threshold of seriousness before dispatching assistance; if they emphasize law enforcement, problems arise in running the jail.[83]

Apart from those difficulties attributable to the competing functions of sheriffs, differences in the frequency and type of crime and the previously noted reluctance to report crimes present law enforcement agencies in small jurisdictions with a different set of tasks than those faced by urban agencies. They appear to engage more in "order maintenance" and "service" functions than in "law enforcement."[84] Studies of small departments reveal such principal tasks as directing traffic, responding to disturbing the peace and family disturbance calls and checking to see if the doors of town businesses are locked.[85]

This concentration on order maintenance and service activities results only in part from the relative infrequency of serious crimes and citizens' reporting of them. It also reflects community preferences for handling disputes informally which suggests a final distinctive characteristic--the closer ties between community preferences and police behavior. As noted, elected sheriffs must be mindful of community opinion. But other factors help explain tighter control over police behavior in these jurisdictions. A major explanation for the high degree of police discretion found in urban areas is the low visibility of police actions. In smaller communities the actions of police officers are known to most of the population thanks to the effectiveness and extensiveness of informal communication networks; there they are more highly visible. As a result, small town police enjoy less latitude in deviating from dominant community values.

Scattered evidence supports this supposition. Handberg's surprising discovery of a high turnover among elected rural sheriffs suggests the existence of effective mechanisms for judging performance.[86] Wasby's study of small police departments in Massachusetts and Illinois reports frequent conflict between police chiefs and city councils,[87] suggesting not only the salience and visibility of police policy but also the availability of sanctions in the form of public criticism and possible removal from office. He also found small town police interacted with a variety of other individuals in the criminal justice system on a number of matters spanning the formal separation of their roles. For example, he found interaction to transmit information concerning the content and implications of Supreme Court rulings. Police reliance on a variety of information sources on such matters suggests a fairly good integration into the community's social network, a sharp contrast to the social isolation of the police found by studies of urban departments.[88]

The characteristics of law enforcement agencies in small jurisdictions affect the task environment of judges, prosecutors and defense attorneys in several significant ways. First, they shape the nature of the case load, helping to insure that dominant values in the community conform to arrest practices. Second, officers' ties to the political and value structure that dominates the community provide them with effective resources in dealing with those who dispose of cases. They not only know what decisions are made in cases but are also able to communicate their content to other politically relevant individuals in the community. In other words, they possess resources permitting them to bargain effectively over the disposition of cases. Third, high familiarity and frequent interaction produce a high degree of mutual reliance between police and prosecutors.[89]

If the logic of the foregoing argument is correct, we might expect law enforcement officers to play a more active role in the decisions that determine the outcome of cases. Some evidence to this effect does exist. Misdemeanor court judges in rural areas far more often report receiving pressure from the police than do urban judges.[90] Put another way, because of the stronger ties between arresting officers and the rest of the community, courtroom workgroups in smaller jurisdictions probably enjoy less discretion than in urban courts.

Bail and Jail

Although we can speculate about how familiarity and informality affect bail setting in small jurisdictions, I encountered no research explicitly examining this matter. However one impressionistic account asserts that sheriffs significantly affect such pretrial decisions as bail because they often know the arrestee and his background.[91] Another study asserts that rural judges and court officials only reluctantly adopted bail reforms implemented elsewhere because they personally knew many defendants coming before them.[92]

Sheriffs run jails in forty-five states.[93] As noted, competing demands on patrol and jail resources result in a too small and inadequately trained jail staff. Several authors report on the conditions found in rural jails and their impressions confirm what we would expect. Many jail programs have no probation, no recreation and no medical services; juveniles frequently are held with adults.[94] Like rural courthouses,[95] jails often are very old and in poor physical condition. County governments rarely assign high priority to funding jail operations or investing in renovations. Consequently, there is frequent lack of compliance with state-mandated minimum standards.

It is not clear, however, whether rural jails are worse than urban jails. In particular, we do not know if they punish detainees awaiting trial as severely or create as much pressure on them to plead guilty in order to get out of jail. To the contrary, Ginsberg suggests that the small "family" atmosphere often found in small jails run by a sheriff and his wife, serving as cook, may provide a more humane setting than urban jails.[96]

State-Mandated Structure and Procedure

Since statutes, court decisions and rulings from judicial administrators are imposed regardless of a jurisdiction's size, few differences between small and large courts, attributable to such factors, emerge. Possibly largely rural states more often specify particular structural features such as electing court clerks rather than having judges appoint them,[97] or paying minor court judges on a fee basis.[98] However a few recurring differences in the basic structure exist. The county serves as the critical level of government for the courts in most states.[99] In many states, especially in the West, sparse county populations lead to the formation of multi-county districts.[100] This arrangement considerably complicates the political environment of judges since they must deal with several sets of county officials (not to mention the extra travel burdens imposed). Similarly, county prosecutors must deal with a number of law enforcement agencies that serve as principal sources of cases.

The Size and Nature of the Case Load

The characteristics of small jurisdictions already described produce an obvious difference in the number and nature of cases when compared to urban areas. Lower crime rates and the predominance of minor crimes, coupled with police reliance on informal techniques, lead to lower arrest rates in general and an emphasis on petty offenses such as intoxication and traffic violations. The legal culture of the local bar and the close ties of its members to dominant community values probably produce fewer major challenges to major local institutions, interests and decision-making procedures.[101]

The fact that the number of defendants processed in small jurisdictions is low cannot necessarily be taken to mean that "case pressure" is also low. Case pressure results from the interaction of the cases brought and the resources (especially time and personnel) available to handle them. The scarcity of resources and the shortage of trained personnel in small jurisdictions may produce just as much or more pressure on the system to dispose of those cases expeditiously.

Pressures on Judges and Attorneys: A Summary

The foregoing discussion presented some of the research and writing that helps describe the task environment faced by principal participants in the legal process in small jurisdictions. Its major points will be summarized below.

Judges feel pressures to maintain good relations with a variety of individuals in order to operate effectively in an informal rather than bureaucratic manner.[102] Retaining independence in such a setting can be difficult. Prosecutors seek to control the criminal calendar, private attorneys the civil calender. Court resources must come from elected county officials and clerical support personnel often are elected themselves or appointed by non-judicial elected officials.[103]

Prosecutors stand out as some of the best educated persons in the community. Police and elected officials look to them for legal advice and the community expects them to educate others on the law and its operation.[104] They must deal with a number of law enforcement agencies. They and their assistants are often inexperienced, part-time, and anxious to work on their private cases.[105]

Howard Eisenberg summarizes nicely the changes that have recently occurred with respect to providing counsel to indigents in small jurisdictions. "The increase in the number and types of cases in which the courts have mandated that counsel be appointed; the concern of the taxpayers for reduction in taxes; the relatively few lawyers in rural areas competent to provide criminal representation; and the increase in the number of criminal cases in rural areas have resulted in increased costs, decreased quality of representation, and a general dissatisfaction with the present method of providing counsel."[106]

As with their urban counterparts, the compensation of appointed counsel is so low that, ironically, it works as an incentive to dispose of cases as quickly and effortlessly as possible. If anything, these pressures are even greater than in urban areas because appointed attorneys have less criminal experience and county treasurers less money. Public defender organizations, though infrequently established in small jurisdictions, face similar pressures. Often dependent on a local judge or county board of supervisors for their budget, they "may absorb many cases without adequate compensation or staff, or may sometimes be less than zealous."[107] Again, whether this occurs more often in small jurisdictions cannot be determined from existing research but the general pattern of informality and close interaction found in them suggests it does.

In general, then, small jurisdictions' task environments contain more pressures emanating from the local community which impinge directly on the principal actors in the criminal justice system and more profoundly shape their behavior. Reinforcing this tendency is the more frequent interaction of judges and attorneys which means they are more significant elements in each other's task environments than they are in urban jurisdictions. In small communities, the linkages to the political system generally are stronger, the impact of higher courts not as great, and the "internal" life of the prosecutor's office, judge's organization and public defender's office less significant factors relative to case outcomes.

Factor V. The Nature of Sponsoring Organizations

The elements of the model in Figure 1 (already described) impinge upon case outcomes both directly by influencing the behavior of individuals making decisions in the courtroom and indirectly by shaping the policies of the sponsoring organizations which send participants to the courtroom. Sponsoring organizations thus mediate pressures from police, the media and the community. In the process, they may enhance the significance of some pressures, downplay others and introduce entirely new ones.

In urban jurisdictions, sponsoring organizations play a crucial part in mediating and molding environmental pressures and in shaping the behavior of their representatives in the courtroom. In small jurisdictions, however, sponsoring organizations play a far less important role, principally because few people occupy each position. If a small county has a public defender, he usually serves alone and on a part-time basis.[108] Similarly, prosecutors either will have no assistants or one or two at most,[109] and a single trial judge typically serves small jurisdictions. Where the duties of judge, prosecutor or public defender are respectively performed by only one person, it is impossible to separate the personal beliefs and behavior of that individual from the "sponsoring organization."

Other characteristics of small size also distinguish small from large sponsoring organizations. They are less bureaucratic and typically lack a set of formal rules and procedures, office manuals, an elaborate hierarchy and regular formal meetings of the staff. They tend toward very informal interpersonal interactions.[110] Key personnel frequently serve only part-time. The entire staff, clerical included, receives little formal training. Support services--space, supplies, and equipment--often are inadequate,[111] sometimes shockingly so. Finally, knowing that public officials in rural areas in many states receive lower salaries than urban officials, such is also probably the case with rural prosecutors and defenders.[112]

It is also interesting to note the countervailing forces inherent in small jurisdictions by which the internal politics of prosecutor's offices are shaped. Their informal interaction and close ties to a unified political structure would suggest natural cohesion and adherence to office policies. But low pay, the part-time nature of the work and the need to build a private practice produce incentives to slight official duties.[113] Such incentives may also reduce allegiance to the office and its policies. Additionally, the inexperience of assistant prosecutors, the lack of resources or incentives for staff training and the lack of financial rewards for increased knowledge and skill suggest the quality of assistant prosecutors' work may not be high. Whether there are forces to counteract these tendencies is unknown.

In jurisdictions with public defender offices, part-time assistants face the same set of disincentives that prosecutors do. Even when working full-time, their motivation and performance often is impaired by lack of adequate staff and funding to handle the workload.[114] Most small jurisdictions, however, provide indigent defense by assigning private attorneys.[115] Even here, similar incentives are frequently encountered, especially due to low compensation. The National Center for State Courts' study of rural courts produced a somber summary of their assigned counsel systems:

> The system produced a ragged quality of defense: one defendant benefits from a very good defense while another receives a very

poor one. Many attorneys do not devote themselves adequately to their defense appointments. Appointed counsel are frequently not prepared, often because they have too little time and resources to prepare their cases. Many lawyers are not well trained for criminal defense. Appointed counsel receive very low pay, and many county governments begrudge them even that.[116]

The small town bar would appear to exert the kind of control over the behavior of private attorneys that more narrowly defined sponsoring organizations exert in larger jurisdictions. This is attributable to the lawyers' social homogeneity and the similarity of law practices[117] which leads to frequent interaction and interdependance. Of course, such processes cannot operate in counties where only one or two attorneys practice. However the need to maintain working relationships with nonlegal elites probably provides an equally effective mechanism for producing conformity.

Factor VI. Role Perceptions, Attitudes and Values of Courtroom Participants

Do prosecutors and defense attorneys dislike plea bargaining more in small jurisdictions? Are judges more conservative in their beliefs about the value of punishment versus rehabilitation than their urban counterparts?

No studies examined focused explicitly on how judges and attorneys in small jurisdictions view their roles or on how their attitudes and values differ from those of their counterparts in larger jurisdictions. We can speculate that a comprehensive search of the literature would provide some empirical insight into such questions, albeit not the complete picture. For example, large scale studies of prosecutors may contain descriptions of differences according to (among other things) size of jurisdiction. For the moment, however, the factors previously discussed offer the only readily available information about courtroom participants in small jurisdictions. Studies focusing upon role attitudes and values will have to be conducted in small jurisdictions before definitive conclusions can be drawn.

Factor VII. Work Group Structure and Goals

Recent urban criminal justice research on the changing combinations of attorneys and judges who make crucial decisions reveals that certain attributes of these "courtroom work groups," particularly the familiarity of their members, the stability of their composition and the nature of any shared attitudes, seem to play an important part in determining case outcomes.[118]

The small number of key participants in each jurisdiction, their lack of mobility and their long residence in the community which produces a high degree of familiarity of work group members, are perhaps the most significant distinctive attributes of these work groups in small jurisdictions. The more familiarity, the greater the likelihood that informal techniques, including plea bargaining, are utilized to process cases. And familiarity extends beyond prosecutor, defense attorney and judge. Law enforcement officers know and are known well by other participants. Jurors often know the defendant, victim, witnesses and their families and the family histories of each.[119] Furthermore, when one of the participants does not personally know the parties in a case, the others can, and often do, "fill in" missing information.[120]

The stability of work groups is also high. Even in rural counties where several attorneys practice, only a certain few defend most offenders.[121] Thus the work group members in one case are not only familiar with one another, they know they will be working together on future cases. While some urban courtroom work groups also exhibit both familiarity and stability, it is reasonable to conclude most work groups in small jurisdictions do. Additionally, the rural work groups probably more often share attitudes and beliefs on such questions as the purpose and severity of punishment and which disposition alternatives are appropriate in which cases.

The higher stability, familiarity and consensus on goals found in small jurisdictions' courtroom work groups all make it more difficult for any member to ignore the wishes, concerns and values of the others. In this sense, work group members enjoy less autonomy than many of their urban counterparts.

The structure of rural work groups in criminal cases differs in several other respects from urban work groups. In felony cases, police more often participate actively in shaping plea bargains, a product of their familiarity, close ties to community values and ability to sanction behavior that strays from community norms. In misdemeanor cases, work groups more often assume a simpler structure. Police officers essentially serve as prosecutors, especially where misdemeanor courts are decentralized. In addition, defense attorneys less often are present. An American Judicature Society study of misdemeanor courts found ninety-four percent of its respondents in big cities said that a defense attorney was "always" or "frequently" present at guilty pleas; for small jurisdictions, the figure was only forty-five percent.[122]

Factor VIII. The Nature of Cases and Defendants

Distinctive characteristics of the cases and defendants which courtroom work groups in small jurisdictions handle result from differences already discussed, for example the lower incidence of crime, differences in the composition of crimes committed, the nature of those who commit them and the arrest rate. These differences undoubtedly produce distinctive patterns in the mix of charges actually adjudicated in small jurisdictions' criminal proceedings, though no explicit comparisons with cases that actually go to court in urban areas were found.

A common assertion is that "outsiders" receive harsher treatment in small jurisdictions than local residents.[123] Because it may be that a higher proportion of offenders in small jurisdictions live outside their boundaries, the assertion deserves empirical study.[124] Similarly, some authors claim that certain groups within the local population receive differential treatment: the wealthy and their sons and daughters appear less often in court;[125] minority groups appear more often and receive harsher treatment.[126] Similar assertions about differential treatment in large cities are commonplace and it is difficult to know if or how small jurisdictions differ in this regard. Other likely differences such as the quantum of evidence needed to support guilty verdicts also must await further research.

Factor IX. Work Group Disposition Decision Patterns

Perhaps we can best summarize the important points of the preceding discussion by looking at whether work groups in small jurisdictions exhibit patterns of interaction and produce outcomes that distinguish them from urban work groups. Logically, if differences in the general environment, legal culture, task environment of sponsoring organizations and so forth exist and have an effect, their impact should be reflected in the behavior and output of work groups.

This examination of work group decision patterns focuses on how felony cases are treated though a brief discussion of misdemeanors follows. The discussion of felony dispositions examines five principal ways work groups in small jurisdictions might differ from urban work groups: (1) the degree of formality or informality in interactions; (2) the amount and nature of information available on cases and how it is communicated; (3) the extent to which cases receive "individualized" treatment; (4) the method used to dispose of cases (dismissal, trial, guilty plea); and (5) the relative influence each participant exerts on outcomes.

Degree of Formality/Informality

The informality that many generally attribute to social interactions in America's rural areas apparently extends to courtroom proceedings as well. Most descriptions of rural courts include some reference to it.[127] Eisenberg, who observes such courts operate in a "traditionally informal manner," suggests this pattern was established in earlier times when defense attorneys seldom represented felony defendants.[128] The judge rarely encountered the raising of legal technicalities and often decided cases without motions or formal argument. The assignment of private attorneys to represent indigents did not alter this pattern since these attorneys had little desire or incentive to break tradition. Despite recent assigned counsel developments in small jurisdictions,[129] these traditions still influence patterns of disposition.

Available Information

The informality characteristic of small jurisdictions probably creates greater opportunities for exchanging information about cases and discourages reluctance to do just that. Police, attorneys and judges not only more readily share the information they possess but also have more knowledge of cases to begin with. Sheriffs know many defendants already and get to know others better, especially if they are in jail.[130] Court clerks also know many people and "fill in" attorneys or jurors when they are unfamiliar with the principal in a case.

Individualized Treatment

Better information, coupled with lower case volume and reliance on informality, combine to give defendants more individualized treatment of their cases.[131] For example, Ginsberg reports that judges use their knowledge of the crime and the defendant to conduct a meaningful inquiry at guilty plea ceremonies.[132] Stott notes rural juries can focus more on the facts surrounding events because they already know the parties.[133]

What is the impact of this individualized treatment on the fairness of the process? Certainly the potential for fairness is enhanced. Some have observed that small courts produce a pattern of "compassionate disposition."[134] But opportunities to introduce bias into the proceedings and to sacrifice due process to the requirements of informality also arise.[135] A study of misdemeanor courts revealed widespread concern that rural misdemeanor courts displayed judicial bias against defendants and ignored questionable police arrest procedures.[136] We probably can say this individualized treatment results in substantial variability in the fairness of the proceedings but we do not know how frequently the balance swings either to substantial fairness or injustice.

Case Disposition Methods

A number of characteristics of small jurisdictions converge to encourage negotiated dispositions regardless of their fairness. Urban court research asserts that high familiarity and stability among work group members leads to more frequent negotiation, particularly guilty pleas.[137] Other previously discussed factors reinforce the impact of a small court's high familiarity and stability: informality; reluctance of witnesses and victims to testify and of juries to convict; and the incentives for part-time prosecutors and underpaid assigned defense counsel to avoid time-consuming proceedings. Some evidence regarding the nature of plea bargaining in small jurisdictions exists. Apparently rural judges less often report active, overt participation in the process leading to a plea.[138] This does not mean judges exert less influence on bargain outcomes since others involved well know the judge's preferences and probable reactions.

The unreliability of court caseflow statistics and the lack of focused, comparative research on court disposition patterns prevent us from knowing conclusively whether plea bargains more often conclude cases in small jurisdictions than elsewhere. The Georgetown University Law Center's study of plea bargaining, however, concludes on the basis of data from twenty states that no clear patterns emerge in the relationship between jurisdiction size and guilty plea rate.[139] This conclusion neither tends to support the argument just made that plea bargains might more often be found in small jurisdictions, nor confirms the conventional wisdom holding that negotiated pleas are a phenomenon of large urban courts.

Relative Influence of Participants

I noted earlier that court clerks and law enforcement officers play a more active role in disposing of cases in small jurisdictions. This suggests influence over outcomes is more widely shared. Some research on urban courts finds that stable, familiar work groups display a more equal sharing of influence.[140] If the hypothesis on the relationship between work group structure and the distribution of influence is accurate, even greater equalization of influence should be found in small jurisdictions. Existing descriptions say little about this matter[141] and no empirically-grounded conclusions can be drawn.

The limited information on the disposition of misdemeanors by work groups in small jurisdictions tells us only that they display a much simpler structure since prosecutors and defense attorneys less often participate.[142] This evidently results in frequent disposition of misdemeanor cases at the initial appearance since it is known no prosecutor or defense attorney will be available on the "trial" date to work out a plea bargain.[143] Not only do dispositions come earlier but they also appear less often to involve overt bargaining. Alfini and Doan found fifty-one percent of rural misdemeanor judges in their mail survey reported "always or frequently" plea bargaining; seventy-three percent of judges in middle-sized courts and seventy-eight percent in big city courts reported bargaining that often.[144] Thus, defendants in small jurisdictions appear to routinely plead guilty without bargaining[145] which raises the fascinating question of what processes, attitudes and subtle pressures induce rural misdemeanor defendants to enter a plea.

A Summary

While the foregoing literature review obviously has its limitations, by using Figure 1 as a frame of reference we can isolate the most distinctive features of small jurisdictions and speculate on their implications.

> Factor I. The social, economic, political and legal elites of small jurisdictions exhibit greater homogeneity in social composition and political values. Though the general population may exhibit great diversity in its socioeconomic structure, the mobilized interest structure exhibits less development than equally diverse populations in larger jurisdictions.
>
> Factor II. Critical participants in the legal process spring from this relatively homogeneous local elite "establishment" and maintain closer ties to it than do their more diverse urban elite "establishment" counterparts.
>
> Factor III. The legal culture of smaller jurisdictions displays less congruence with the norms and values of national and state legal policymakers and responds less willingly and frequently to outsiders' efforts to shape its content and practice. Thus, small jurisdictions are more isolated and autonomous.
>
> Factor IV. The task environment exerts more effective control over key participants in the legal process as the result of a combination of familiarity, higher visibility of their actions and the existence of more numerous and potent channels for sanctioning those whose behavior violates local establishment norms.
>
> Factor V. The lack of complex sponsoring organizations attributable to so few people filling the roles of judge, prosecutor, defense attorney, etc., deprives key participants of the protection, "buffering," and alternative sources of pressures that their counterparts in larger jurisdictions experience.

Factor VI. Courtroom participants lack the motivation and resources to challenge the basic procedures and institutions of the status quo. Their values and interests less often can be separated from those of the "establishment."

Factor VII. The work groups that dispose of cases consist of individuals who almost always know one another personally (high familiarity) and interact with each other on a daily basis (high stability).

Factor VIII. The cases and defendants entering the legal process must pass through more stringent screening mechanisms and procedures that effectively prevent more potential cases from entering the system than in urban areas. When such informal mechanisms fail, work groups possess better knowledge of the details of disputes and disputants than their urban counterparts and can better predict outcomes. In many respects uncertainty is lower.

Factor IX. Civil and criminal cases that formally enter the system more often receive a disposition employing informal mechanisms than in urban areas.

Conclusion and Implications

While our knowledge is too scant and the propositions presented too narrow to permit any systematic assessment of all their implications, I believe we can engage in informed speculation regarding two issues central to the study of the legal process: (1) the nature of discretion, and (2) the role the legal process plays in maintaining or altering the status quo.

The concept of discretion occupies a central position in much of the recent scholarship devoted to the legal process. If my hunch that discretion in small jurisdictions differs substantially from that found elsewhere is correct, we can learn something about the factors that shape discretion by examining its exercise there.

By discretion, I mean the ability to make choices between significant alternatives without incurring unduly severe sanctions for choosing any of them. Discretion in small jurisdictions is better understood by examining three crucial factors that shape its character and operation. First, discretion requires personal values and motivations to guide choices among alternatives. Without these factors, choices may be made haphazardly or delegated to others. Second, discretion depends upon the visibility of the choices made to other participants in the decision-making milieu who possess the capacity to impose sanctions. For example, a police supervisor who does not know what his patrolmen do on the street cannot invoke the sanctions that can control their exercise of discretion. Third, even if the decisions made are visible to those who can impose punishment, these sanctions must actually be used and must be potent enough to deter if discretion is to be controlled.

Figure 2 (on the following page) summarizes the characteristics of each of these three crucial factors shaping discretion in both small and large jurisdictions. It demonstrates the futility of asking whether there is "more"

FIGURE 2

Summary of Differences in Factors Shaping Discretion Between Large and Small Jurisdictions

	Small Jurisdictions	Large Jurisdictions
Sources of values, motivations of legal process decision makers:	High consensus among local establishment reflecting homogeneous ruling strata's values.	Sponsoring organizations' policies, incentive structures, partially internally generated, partially community-based. Norms established by statute, case law and enforced by state and federal courts. Diverse, conflicting views of mobilized community interests.
To whom are decisions visible:		
"Routine" cases	High visibility to community, especially the ruling strata (including legal process personnel).	High visibility to sponsoring organizations, police, only occasional visibility to appellate courts. Low visibility to all others.
"Important" cases	Same as above with somewhat more "general community" visibility.	Same as above plus high visibility to mobilized diverse interest groups and mass public.
Nature of sanctions for violations of norms:		
"Routine" cases	Community-based informal social, economic pressure (potent), reinforced by withdrawal of cooperation from deviants by other legal process participants.	Sponsoring organization: fire, transfer, criticize; peer pressure; work group (if stable) withdraw cooperation, social pressure; counterpart sponsoring organizations and police withdraw cooperation, mobilize outside community pressure; (sometimes) appellate court reversal, administrative order.
"Important" cases	Same as above plus broader community disapproval, criticism, withdrawal of support (including electoral, budgetary).	Same as above minus sponsoring organization and work group; and plus criticism, withdrawal of support from mass public, budgetary officials, press.

discretion in large or small jurisdictions. Rather, it highlights the differences that emerge. In small jurisdictions, participants within the legal process enjoy little discretion with respect to dominant norms and forces within the local community. Even where social diversity exists, it infrequently translates into a developed, diverse interest group structure. High visibility, familiarity and mutual interdependence insure that the strong consensus of the homogeneous local "establishment" guides decisions in the legal process. But these cohesive communities, which allow little discretion within, display a greater degree of autonomy from "outside" forces and values. In large jurisdictions, by contrast, societal values and institutions (such as appellate courts) take a greater interest, find more support for their efforts to guide decisions and are more often invoked by dissenting and/or losing interests. At the same time, the local community exerts much less control. Visibility of routine decisions is much lower and the existence of a diverse set of mobilized interests better reflecting social and economic heterogeneity both precludes the development of a strong consensus and provides support for those who articulate different positions or nonconformity. The control exerted by the community in small jurisdictions is replaced in large jurisdictions by restrictions on discretion emanating from the legal process itself. In a sense, individual decision makers and their sponsoring organizations in larger communities watch and control each other with only occasional reference to and mobilization of community-based forces and societal norms.

To conclude that the legal process in small jurisdictions generally contributes to maintenance of the status quo tells us little about its distinctiveness. The status quo receives significant support nearly everywhere regardless of a jurisdiction's characteristics. However two noteworthy ways in which small jurisdictions' legal process bolster the status quo deserve brief comment.

First, though the evidence is weak it appears that minority groups receive less of a fair shake than in larger jurisdictions. Several factors contribute to this pattern. According to Hagen, urban courts rely more heavily on bureaucraticized procedures, permitting legal criteria to shape decisions in ways that they cannot when informal procedures predominate.[146] The greater isolation from the rest of the legal system in rural areas also discourages reliance on societal norms promoting due process and equality of treatment. Minorities lack political organization and access to the governing strata. They cannot easily make claims for better treatment let alone sanction those who do not offer it.

Second, disadvantaged groups less often choose the legal arena to pursue political goals. The reasons are evident from what has already been said. Few, if any, attorneys in small jurisdictions come from disadvantaged strata or share their perspectives. Most lawyers participate actively in the institutional network that constitutes the status quo. If any attorney contemplated bringing an action that challenged an important aspect of existing arrangements, the anticipation of social sanctions and economic retaliation that might follow probably effectively dissuades him. Minority groups possess neither the numbers, organization or wealth to protect and support renegade attorneys. Of course such challenges sometimes arise, but far less frequently than in larger jurisdictions.

These implications for the operation of discretion and support of the status quo rest primarily on informed speculation and may be disconfirmed by subsequent research. These are but two of the many topics that can be examined by future research on the legal process in small jurisdictions. I would hope to help encourage more research by noting some of the benefits such work can reap.

The combination of similarities and differences found in small jurisdictions suggests one advantage of studying them. The characteristic mechanisms employed by the legal process and the closeness of its ties to the local community appear to be quite similar. However the social, economic, political and geographical characteristics of the communities themselves differ substantially. This diversity presents a rich variation that encourages comparison and produces insights into the crucial process that links features of the larger environment to the operation of law. But it is not just diversity that promises to enhance our understanding of this link. The legal process is less differentiated and less isolated from social and political processes in small jurisdictions. The connections between them are clearer, less often obscured by the sheer size and complexity of the metropolitan environment. Similarly, the operation of the felony and misdemeanor processes exhibit greater integration, facilitating examination of the hitherto little studied relationship between them. Possible links between civil and criminal processes also mesh more closely.

Research on urban criminal courts contributed substantially to the development of "organizational" approaches to understanding the legal process. The degree of familiarity and stability of work groups and the lack of elaborate sponsoring organizations that rarely, if ever, are found in large jurisdictions represent opportunities to measure the interaction of work group characteristics with personal attitudes and values of work group members. Thus, further progress in developing and extending the organizational approach is likely to emerge from a research focus on small courts.

Existing research devotes little attention to the dynamics of change in courts. Several significant trends in small jurisdictions promise to provide excellent opportunities to observe such change: crime is increasing in frequency and seriousness; population is growing, particularly due to immigration of former urban residents with different values, independence from the local economy and extensive demands for service.[147] The expansion of the Legal Services Corporation into small jurisdictions brings "outside" attorneys with an independent source of support into the legal community for the first time, providing the potential for legal challenges to existing institutions and procedures.

Finally, the smallness of these jurisdictions presents special opportunities (and obstacles) to research. Because fewer individuals participate in the operation of the legal process, it costs less to achieve accurate descriptions and to conduct complete inventories of major participants' views. Thus, the number of jurisdictions that can be studied and the variation obtainable on key variables can be greater. Simultaneously, however, hostility toward "outsiders," the existence of a grapevine that can produce reactive responses to the intrusion of researchers and heavy reliance on influence through anticipated reactions (which is more difficult to study) all present problems to the researcher.

The basic premise of this discussion, however, has been that the importance of studying how approximately one-third of our people are affected by the legal process and the substantial payoffs that studying small jurisdictions can make to our understanding of the operation of law in society generally, fully justify devoting our energies and intellect to exploring these problems. Our previous neglect of small jurisdictions has severely restricted our knowledge. A more balanced selection of research sites will produce substantial rewards.

NOTES

[1] I have found this model to be useful in guiding research on criminal trial courts serving between 100,000 and 500,000 people. For another description of the model, see James Eisenstein, Peter F. Nardulli and Roy B. Flemming, "Explaining and Assessing the Pretrial Process: A Comprehensive Theoretical Approach and Operationalized, Multi-jurisdictional Application" (paper presented at the Law and Society Association Annual Meeting, San Francisco, May 10-12, 1979).

[2] For a discussion of the concept of the courtroom work group and its contribution to the disposition of criminal cases, see James Eisenstein and Herbert Jacob, Felony Justice: An Organizational Analysis of Criminal Courts (Boston: Little, Brown, 1977), especially Chapter 2.

[3] See, for example, the descriptions of the counties studied in two of the seminal articles on rural justice, "Rural Poverty and the Law in Southern Colorado," Denver Law Journal, 47 (1970), 82-176, and "The Legal Problems of the Rural Poor," Duke Law Journal, (1969), 495-621 (hereinafter cited as Denver Law Journal study and Duke Law Journal study respectively).

[4] Curtis Toews, Kathryn Baker, Ann Thompson, and Susan Schapiro, "Rural Poverty and Rural Justice," in Shanler D. Cronk, ed., A Beginning Assessment of the Justice System in Rural Areas (Conference Report, October 1977, sponsored by the National Rural Center and the American Bar Association), hereinafter cited as Toews et al. They note, for example, that thirty-two percent of the population is found in nonmetropolitan areas. In 1975, 10.8 percent of metropolitan residents and 15.4 percent of nonmetropolitan residents were classified as poor. Twelve percent of the metropolitan poor and twenty-one percent of the nonmetropolitan poor were elderly.

[5] Toews et al. Don A. Dillman and Kenneth R. Tremblay, Jr., in "The Quality of Life in Rural America," The Annals of the American Academy of Political and Social Science, 429 (1977), p. 115, conclude that rural residents are deprived in the receipt of institutional services when compared to urban residents.

[6] Shanler D. Cronk, ed., A Beginning Assessment of the Justice System in Rural Areas (Conference Report, October 1977, sponsored by the National Rural Center and the American Bar Association), Introduction, pp. 9-10.

[7] See Michael Ginsberg, "Rural Criminal Justice: An Overview," American Journal of Criminal Law, 3 (1974), pp. 48-49, and E. Keith Stott, Jr., Theodore J. Fetter and Laura L. Crites, Rural Courts: The Effect of Space and Distance on the Administration of Justice (Denver: National Center for State Courts, 1977), p. 6 (hereinafter cited as Stott et al.).

[8] Stott et al., p. 2.

[9] A number of sources make this assertion. See, for example, Ginsberg, Rural Criminal Justice, p. 36; Bert E. Swanson, Richard A. Cohen and Edith P. Swanson, Small Towns and Small Towners: A Framework for Survival and Growth (Beverly Hills: Sage Publications, 1979), p. 86, 95; Cronk, Beginning Assessment, Introduction, p. 13; Stott et al., p. xv. For a critical

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discussion of these assumptions and some works that make them, see Frank M. Bryan, "Toward A Theory of Rural Politics" (paper presented at the 1978 Annual Meeting of the American Political Science Association, New York, September, 1978), pp. 17-18.

[10] *Denver Law Journal Study*, p. 113, notes the "establishment class" is aware of the plight of the "poverty" class but ignores or glosses over evidence of its existence. It does not, however, appear to be truly *familiar* with or much involved with the poverty class. An *Iowa Law Journal* study suggests lawyers lack enough familiarity with the lives of the poor to know what problems they face. See A.I. Widiss, "Legal Assistance for the Rural Poor: An Iowa Study," *Iowa Law Review* 45 (1970), p. 137.

[11] Grant McConnell, *Private Power and American Democracy* (New York: Random House, 1966, Vintage edition, 1968), p. 93.

[12] Ibid., pp. 94-107.

[13] A number of scholars support McConnell's contention that smaller communities utilize informal techniques to resolve disputes and make decisions. See, for example, Vidich and Bensmen's classic study, *Small Towns in Mass Society* (Princeton, New Jersey: Princeton University Press, 1958). In a study of legislative recruitment in Oregon, Seligman et al., report that in rural districts, "Cleavages are suppressed and mavericks and 'troublemakers' are snubbed or ostracized. Informal, behind-the-scenes negotiation is the customary method for 'managing' conflict." Lester G. Seligman et al., *Patterns of Recruitment: A State Chooses Its Lawmakers* (Chicago: Rand McNally, 1974), p. 177. Discussions of this topic in the rural justice literature echo this description. See, for example, Stott et al., p. 5; Bryan, p. 17, reports the findings of studies of small towns' political decision making. For an intriguing discussion of informal decision making involving law-related problems, see *Denver Law Journal* study, p. 169 ff, on the use of "confidants" by Colorado's rural poor.

[14] A paper by Joan Hogan, "Rural Community Associations as Devices of Representation and Conflict Management," (paper delivered at the 1978 American Political Science Association, New York, September 1978), cites Louis Coser's *The Functions of Community Conflict* (New York: Free Press, 1956). Coser argues that dissenters in a small community keep quiet to avoid incurring the hostility of those with whom they must continue to interact. Bryan, p. 12, cites a study by Jane J. Mansbridge, "Town Meeting Democracy" in Peter Collier, *Dilemmas of Democracy* (New York: Harcourt, Brace, Jovanovich, Inc., 1976), pp. 148-167, which attributes low participation in rural town meetings to inhibitions induced by the psychic costs such activity incurs.

[15] Seligman et al., *Patterns of Recruitment*, p. 171, offer support in their description of rural Oregon communities. "Each voter is on a first-name basis with nearly all the permanent residents in the district. . . . When a candidate seriously challenges the incumbent, the challenge arouses personal animosities that pit cliques against cliques, thus upsetting the whole community. . . . [C]hallengers threaten established relationships, and are therefore frowned upon."

[16] McConnell, *Private Power*, p. 107. Participants at a conference confirmed such inequality. They felt decisions in rural jurisdictions were "made over and over again by the same few people representing the only interests

which are organized--usually large private interests." Cronk, Beginning Assessment, Introduction, p. 7. The Duke Law Journal study, p. 545, describes a similar decision-making pattern.

[17] Swanson et al., Small Towns, p. 169. The original discussion is found in C.W. Gilbert, Community Power Structure: Propositional Inventory, Tests, and Theory (Gainesville, Florida: University of Florida Press, 1972), pp. 38-46.

[18] Gerald T. Gabris and William A. Giles studied the efforts of Mississippi counties to obtain federal support for social services. They found the smaller, poorer rural county governments experienced fewer pressures for social services than other counties even though the objective need for them was greater. "Patterns of Informal Organization in Rural Government and the Struggle Over Federal Aid" (paper delivered at the 1978 Annual Meeting of the American Political Science Association, New York, September 1978), p. 13. Cronk, in Beginning Assessment, Introduction, p. 7, notes the poor and minorities in particular have fewer organizational bases in rural areas, leaving them with no way to articulate and pursue their needs.

[19] This discussion is drawn from Hogan, "Rural Community Associations," p. 2 and 19.

[20] Cronk, Beginning Assessment, Introduction, p. 14.

[21] See the Duke Law Journal study, p. 590, for a description of such a situation in a North Carolina rural county.

[22] These research findings are summarized by Bryan, "Theory of Rural Politics," pp. 15-16.

[23] David Knoke and Constance Henry, "Political Structure of Rural America," The Annals of the American Academy of Political and Social Science, 429 (1977), p. 51; Norval D. Glenn and Lester Hill, Jr., "Rural-Urban Differences in Attitudes and Behavior in the U.S.," The Annals of the American Academy of Political and Social Science, 429 (1977), p. 40.

[24] Several studies report considerable insensitivity to racial and economic minorities on the part of rural elites. See, for example, Cronk, Beginning Assessment, Introduction, p. 14. The Denver Law Journal study (p. 114) reports the local establishment holds to "pull yourself up by the bootstraps" notions of how to succeed and critiques the local poor for lacking the inner drive to do so. Gabris and Giles, p. 16, found elites in rural Mississippi counties expressed more distrust of professionals and experts than their counterparts in large counties, and more often believed in the wisdom of limiting the scope and activity of government. See also Bert E. Swanson, "Small Town and Big City Politics," in Harold S. Williams, ed., Towards Smallness: A Human Perspective for Human Scale (Rodale Press, forthcoming) as cited in Swanson, p. 170. Swanson supports the view that there is political consensus in small communities and lists among its consequences fewer participants in governance, stronger incentives to conform to prevailing codes of behavior, more sanctions for political dissent and greater reliance on information obtained informally through face-to-face contacts.

[25] Cronk, Beginning Assessment, Introduction, p. 13.

[26] Jessica Pearson, "Rural Society and Its View of the Legal System," in Stott et al., p. 90.

[27] Martin A. Levin, Urban Politics and the Criminal Courts (Chicago: University of Chicago Press, 1977). See also Eisenstein and Jacob, Chapter 3.

[28] Stott et al., p. 1.

[29] Bryan, p. 4; Stott et al., pp. 2-3; Gordon F. DeJong and Ralph R. Sell, "Population Redistribution, Migration, and Residential Preferences," The Annals of the American Academy of Political and Social Sciences, 429 (1977), p. 130.

[30] Steven Ward, "Rural Crime and Law Enforcement: A Perspective," in Cronk, Beginning Assessment. Louis Patrick Donovan, "The Municipal Police: A Rural and Urban Comparison" (Ph.D. dissertation, Sociology, University of Missouri, 1970), p. 11 reports previous research that rural police must be summoned because they do not patrol.

[31] Donovan, pp. 8-9, citing Stinchcombe, "The Institution of Privacy in the Determination of Police Administrative Practice," American Journal of Sociology, LXIX (1963), pp. 150-160.

[32] Ward, "Rural Crime and Law Enforcement," op. cit.; John J. Gibbs, in Crimes Against Persons in Urban, Suburban, and Rural Areas: A Comparative Analysis of Victimization Rates (Washington, D.C.: U.S. Department of Justice, Law Enforcement Assistance Administration, 1979) notes (p. 11) that not only are personal victimization rates lower in rural than suburban or urban areas, but that violent victimization rates are lower still.

[33] John R. Warner, Jr., "Rural Crime, Rural Criminals, Rural Delinquents: Past Research and Future Directions" (paper presented at the National Symposium on Rural Justice, Knoxville, Tennessee, June 20, 1979), p. 6.

[34] Don C. Gibbons, "Crime in the Hinterland," Criminology, 10 (1972), pp. 177-191. Gibbons' study of crime in three rural Oregon communities uncovered few serious crimes but a number of petty offenses, especially traffic crimes and drunkenness. G. Howard Phillips' study of Ohio's rural crime found vandalism (especially of mailboxes) and theft of gasoline from farm storage tanks most prevalent in "Crime in Rural Ohio" (Final Report to Ohio Farm Bureau Federation, March 1975).

[35] Ward, "Rural Crime and Law Enforcement," op. cit.

[36] These conclusions are drawn from a summary of existing research by Warner, p. 9 and 20. According to Gibbons, offenses arose from situational contingencies rather than underlying motivation to engage in criminal acts.

[37] "People stop reporting minor crimes when the only official response received comes the next day, if at all." Roger Handberg and Charles M. Unkovic, "Changing Patterns in Rural Law Enforcement: The County Sheriff As a Case Study" (paper presented at the National Symposium on Rural Justice, Knoxville, Tennessee, June 20, 1979), p. 11. The Denver Law Journal

study, p. 145, found widespread feeling that the sheriffs in both counties studied were incompetent and that consequently much crime (especially juvenile delinquency) went unreported and unpunished.

[38] Warner, pp. 4-5, points out that when crime rates in rural areas are compared to those in towns of between 2,500 and 9,999, rural areas display higher arrest rates for fraud, offenses against the family and children, manslaughter and murder.

[39] Ginsberg, p. 50.

[40] Stott et al., p. 14.

[41] Seligman et al., Chapter 4 and pp. 176-178.

[42] National District Attorney's Association, *Handbook for the Rural and Small Office Prosecutor* (no date).

[43] Jacob, "Judicial Insulation--Elections, Direct Participation and Public Attention to the Courts in Wisconsin," *Wisconsin Law Review*, (1966), p. 812. A study of Indiana prosecutors confirmed the tendency of younger lawyers to take the job: eighty percent were found to be under forty when they took office. Ken Ori, "The Politicized Nature of the County Prosecutor's Office, Fact or Fancy?--The Case In Indiana," *Notre Dame Lawyer*, 40 (1965), p. 290.

[44] See Richard Wells, "The Small Town Style of Legal Practice and Political Ideology," unpublished paper. Wells surveyed Iowa lawyers in towns of 2,000 to 10,000. His study is the best source of information about the backgrounds of attorneys in small jurisdictions. He found their fathers were professionals (especially lawyers), farmers and businessmen; all grew up in Iowa; sixty percent practiced law in the town where they grew up; they were active church members; nearly half engaged in political party work. For evidence that the bar is more homogeneous in small rather than large jurisdictions, compare Joel Handler, *The Lawyer and His Community* (Madison, Wisconsin: University of Wisconsin Press, 1967), Chapter 2, with Jerome Carlin, *Lawyers Ethics* (New York: Russell Sage, 1966), Chapter 2.

[45] *Denver Law Journal* study, p. 126.

[46] Howard B. Eisenberg, "Criminal Defense in Rural America" (paper presented at the National Symposium on Rural Justice, Knoxville, Tennessee, June 20, 1979), p. 7.

[47] Ginsberg, p. 50; Stott et al., pp. 21-22.

[48] Eisenberg, p. 7.

[49] Handberg and Unkovic, p. 3.

[50] Ibid., p. 7.

[51] Ibid., p. 8.

[52] Ibid., p. 9.

[53] Ibid., p. 6.

[54] Donovan, p. 116. Donovan studied 284 nonmetropolitan and 255 metropolitan police in Missouri.

[55] Ibid., pp. 113-114.

[56] Pearson in Stott et al., p. 91. For a discussion of sheriff's deputies' status, see James E. Jordan, "Rural County Sheriffs on Trial in Ohio: Reform Movement or Power Politics" (paper presented at the National Symposium on Rural Justice, Knoxville, Tennessee, June 20, 1979), p. 5. The position is said to be the least prestigious in law enforcement in the state of Ohio.

[57] Ward, op. cit.

[58] Ibid.

[59] Stephen L. Wasby, Small Town Police and the Supreme Court (Lexington, Mass.: D.C. Heath, 1976), Chapter 3.

[60] Pearson in Stott et al., p. 88.

[61] Ibid., p. 88; Donovan, p. 11, cites Stinchcomb's statement that rural people regard complaining to the police as a betrayal of those with whom one interacts.

[62] Denver Law Journal study, p. 134.

[63] Ibid., p. 169.

[64] Duke Law Journal study, p. 581.

[65] Denver Law Journal study, p. 145. This study reports that often an aggrieved individual will seek out an adversary for a face-to-face confrontation.

[66] Pearson in Stott et al., p. 88.

[67] Cronk, Beginning Assessment, Introduction, p. 10; Neil McBride, "Keeping Busy in the Country: Rural Problems and the Public Interest Advocate," in Cronk. See also the Duke Law Journal article which related the reluctance of local attorneys to bring landlord-tenant cases against landlords.

[68] Pearson in Stott et al., p. 89; Stott et al., p. 5.

[69] Eisenberg, p. 15, reports precisely such resistance to changes in the method of providing counsel to the indigent in small jurisdictions, especially if the change involves a statewide public defender. Such plans stir fears of a "takeover" by outsiders.

[70] Two of the factors in Box V of the model presented in Figure 1 will not be discussed: the structure and content of the legal code and short-term forces, issues and events. To understand the operation of any given legal system, both factors must be examined. But generalizations about them cannot be made since by definition they take on specific characteristics depending on the jurisdiction.

[71] Most sheriffs in the Northeast perform few law enforcement duties, concentrating instead on running the jail, serving process, seizing property, conducting auctions and the like.

[72] Ward, op. cit.

[73] Wasby, Chapter 1, reports that in Illinois in 1967, part-time police constituted one-half of full-time equivalent police employment. See also, Advisory Commission on Intergovernmental Relations, State-Local Relations in the Criminal Justice System (Washington, D.C., 1971), for a description of the decentralization, extensive use of part-timers, low quality and minimal services provided by small law enforcement agencies.

[74] Ward, op. cit.

[75] See Keith D. Harries, The Geography of Crime and Justice (New York: McGraw Hill, 1974), Table 5.1, p. 93; Wasby, Chapter 1.

[76] R.K. Bostick, "The Small Department--Training--Management," Police Chief, 42 (1975), pp. 19-21, reports the results of a 1973 survey sponsored by the International Association of Chiefs of Police which looked at training. Small departments found it hard to free an officer to attend training sessions; few training programs were designed to meet nonmetropolitan departments' needs; geographical isolation made the sharing of information and experience with other departments difficult. Thus, minimal training was provided.

[77] Donovan, pp. 114-115.

[78] Handberg and Unkovic, p. 2.

[79] See Matthew T. Zingraff and Paul T. McFarland, "A Structural Analysis of Rural-Urban Arrest Practices" (paper presented at the annual meeting of the Society for the Study of Social Problems, San Francisco, September 4, 1978), p. 12.

[80] T.C. Esselstyn, "The Social Role of a County Sheriff," Journal of Criminal Law, Criminology, and Police Science, 44 (1953), observes (p. 179) "Where the sheriff fails to take cognizance of their [churches, certain occupational groups, service clubs, school boards, fraternal orders, etc.] activities, he risks his strength." Esselstyn also identifies political parties as an important component of the sheriff's constituency.

[81] Jordan, p. 6, states that Ohio sheriffs claim a political status equal to or greater than county commissioners. Until 1974, they had a free hand in the hiring of deputies. Esselstyn, p. 181, reports a sheriff in Illinois in the late 1940s controlled twenty-two jobs and dispensed about $60,000 in payment for services rendered in connection with running the jail.

[82] Ginsberg, p. 37.

[83] Handberg and Unkovic, pp. 10-11.

[84] For an insightful discussion of the distinction between "order maintenance" and "law enforcement," see James Q. Wilson, Varieties of Police Behavior (Cambridge, Mass.: Harvard University Press, 1968) pp. 16-17. A

number of studies assert small departments more often engage in order maintenance rather than law enforcement, including Gibbons, Zingraff and McFarland, Donovan (who found smaller departments performed more escort duties, p. 115), and Esselstyn.

[85] John F. Galliher, L. Patrick Donovan and David L. Adams, "Small Town Police: Trouble, Tasks, and Publics," Journal of Police Science and Administration, 3 (1975), p. 20.

[86] Handberg and Unkovic, p. 6.

[87] Wasby, Chapter 3.

[88] For a classic discussion of police isolation, see John P. Clark, "Isolation of the Police," The Journal of Criminal Law, Criminology and Police Science, 56 (1965), pp. 307-319. Richard Quinney, commenting on this topic in The Social Reality of Crime (Boston: Little Brown, 1970), observes (p. 117): "Law enforcement in rural areas seems to be especially affected by the expectations of the community."

[89] Gary F. Thorne, "The Rural Prosecutor and the Exercise of Discretion," Criminal Law Bulletin, 12 (1976) pp. 301-316. For a discussion of the relations between federal prosecutors and investigative agents (which are closer in smaller federal district courts), see James Eisenstein, Counsel for the United States: U.S. Attorneys in the Political and Legal Systems (Baltimore: Johns Hopkins University Press, 1977), Chapter 8.

[90] James Alfini and Rachel N. Doan, "A New Perspective on Misdemeanor Justice," Judicature, 60 (1977), pp. 425-434. They found eighteen percent of misdemeanor judges in small city and rural jurisdictions reported pressure from the police to dispose of cases rapidly. In big cities, only three percent reported such pressure.

[91] Ginsberg, p. 39.

[92] Stephen F. Wheeler, "Rural Pretrial Services" (paper delivered at the National Symposium on Rural Justice, Knoxville, Tennessee, June 20, 1979), p. 1.

[93] Ken Kerle, "The Rural Jail: Its People, Problems, and Solutions" (paper presented at the National Sympoisum on Rural Justice, Knoxville, Tennessee, June 20, 1979), p. 3.

[94] Kerle, ibid., summarizes well the conditions found in rural jails.

[95] Ginsberg, p. 43.

[96] Ibid., p. 39.

[97] Stott et al., p. 17, report rural states more often elect court officials than urban states.

[98] Wheeler, p. 2, reports that in Kentucky, lower judges and clerks were paid on a fee basis in the recent past; county jailers are still elected and are paid on a fee basis.

[99] Stott et al., p. 9.

[100] Ibid., p. 11.

[101] As suggested earlier, a number of sources make this assertion, though broad-based, systematic evidence is lacking. McBride, in Cronk, asserts attorneys won't take cases which, if won, would give the disenfranchised more say in government. In his introduction, Cronk (p. 10) adds that conflicts of interest are so frequent that it is difficult to find attorneys able to sue local governments or major social institutions.

[102] Stott et al., p. 61.

[103] Ibid.

[104] Handbook for the Rural and Small Office Prosecutor, op. cit.

[105] Ginsberg, p. 40.

[106] Eisenberg, p. 8.

[107] Ibid., p. 12.

[108] Stott et al., p. 21, cite a study by the National Legal Aid and Defenders Association that found in counties under 50,000 that had established a defender system, over half contracted with private attorneys. Where a public defender's office existed, it was likely to employ only one attorney and to be headed by a part-time chief defender.

[109] National Center for Prosecution Management, First Annual Report of the National Center for Prosecution Management (Washington, D.C.: 1973), p. 36. The NCPM survey found seventy-four percent of all prosecutors in the U.S. worked either in "one person" offices or served with less than four assistants. See also, Stott et al., p. 19.

[110] Thorne, p. 308.

[111] Stott et al., p. 4.

[112] In most states, trial judges receive identical salaries regardless of population size but largely rural states pay public officials less than more urban states. In a few states, pay differentials still exist with rural judges receiving less.

[113] Ginsberg, p. 40.

[114] Eisenberg, p. 12, points out that two or three full-time staff members are needed to achieve an efficient public defender's operation but that few rural jurisdictions produce case volume sufficient to justify this many staff attorneys.

[115] Ibid., p. 3, 9. Stott et al., p. 21, quote the National Legal Aid and Defenders Association study, The Other Face of Justice (Chicago, 1973) which found four-fifths of counties under 50,000 relied upon private assigned counsel to represent indigents.

[116] Stott et al., p. 21. Eisenberg, pp. 9-10, confirms this assessment. He notes small courts experience a shortage of competent criminal attorneys and those attorneys who appear face financial disincentives to do a good job, especially (as in Michigan) where local attorneys contract to represent all defendants for a year for a fixed sum.

[117] For a description of small town Iowa attorneys, see Wells, p. 6.

[118] Eisenstein and Jacob, Chapter 2.

[119] Pearson in Stott et al., p. 89.

[120] Ibid., p. 89. According to Pearson, court clerks are an especially good source of such information, especially for judges who must ride circuit.

[121] For example, the *Denver Law Journal* study, p. 128, reported sixteen percent of the attorneys responding to a questionnaire handled seventy-nine percent of the criminal cases. Of 170 cases, one attorney handled thirty-five, and seven were assigned to ten or more.

[122] Alfini and Doan, p. 430.

[123] For example, see Pearson in Stott et al., p. 90.

[124] A common explanation for the increase in rural crime is that improved transportation has facilitated commission of crimes by outside "commuters."

[125] Pearson in Stott et al., p. 90, for example, relates the boasts of a wealthy farmer's daughter about her ability to "do anything" back home, including dealing in drugs, with a sense of security she does not feel elsewhere.

[126] See John Hagan, "Criminal Justice in Rural and Urban Communities: A Study of the Bureaucratization of Justice," *Social Forces*, 55 (1977), p. 609. But see Zingraff and McFarland who found blacks less likely to be arrested in rural than urban counties in North Carolina.

[127] See for example, Stott et al., p. 13; Thomas Scheff, "Conditions for Rationality: How Urban and Rural Courts Deal with the Mentally Ill," *American Behavioral Scientist*, 7 (1974), pp. 21-27.

[128] Eisenberg, p. 6.

[129] Ibid.

[130] Ginsberg, p. 39.

[131] Stott et al., p. 4; Ginsberg, p. 43.

[132] Ginsberg, p. 43.

[133] Stott et al., p. 16.

[134] Eisenberg, p. 7.

[135] Hagan, p. 609.

[136] Karen M. Knab and B. Lindberg, "Misdemeanor Justice: Is Due Process the Problem?" *Judicature*, 60 (1977), p. 421.

[137] Eisenstein and Jacob, Chapter 9.

[138] John P. Ryan and James Alfini, "Trial Judges' Participation in Plea Bargaining: An Empirical Perspective," *Law and Society Review*, 13 (1979), p. 493.

[139] Herbert S. Miller, William F. McDonald and James A. Cramer, *Plea Bargaining in the United States* (Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1978), p. 18.

[140] Eisenstein and Jacob, p. 37.

[141] An exception is Stott et al., p. 82, which reports participants at a conference on rural justice saw a tendency of judges to "relinquish control" of the courtroom, suggesting at a minimum that judges do not dominate courtrooms in small jurisdictions.

[142] Knab and Lindberg, p. 421.

[143] Alfini and Doan, pp. 430-431.

[144] Ibid., p. 430.

[145] Alfini and Doan, p. 431, found the following percentages of misdemeanor judges reporting that half or more of their cases were disposed of by a guilty plea: big city judges, sixty-nine percent; mid-size jurisdiction judges, seventy-seven percent; rural judges, eighty-three percent.

[146] Hagen, "Criminal Justice in Rural and Urban Communities," p. 597.

[147] Hogan, "Rural Community Associations," p. 4.

Editors' Note

For a discussion of the power of prosecutorial discretion and its proper exercise in the rural or small office setting, see Thorne, G.F., "The Rural Prosecutor and the Exercise of Discretion," Criminal Law Bulletin, 12 (3), pp. 301-316 (May-June 1976). Thorne examines the rural prosecutor's interaction with the police, the defense bar, the judiciary and the community, suggesting that this discretion can be quantified, thus enabling the rural prosecutor to turn the criminal justice system (or legal process) more to his advantage.

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CHAPTER VIII

IN SEARCH OF MODELS FOR COURT OPERATIONS IN RURAL AREAS

by Theodore J. Fetter

Historically courts in most of the United States have operated as local institutions responsive to local legal and political forces. In the early twentieth century, however, coincident with other "Progressive Era" reform movements, Roscoe Pound and other thinkers began to advocate efficiency, rational organization, hierarchical control and national standards in court structure. These principles are at the heart of most current court reform models and standards, and reformers have widely accepted them.[1]

But are they adequate as models for all courts? Are there exceptions (courts which for some reason would operate better according to different principles)? These and related questions naturally arise from an awareness that is hard enough to agree on what constitutes "better" operation, much less test the empirical factors which would answer those questions.[2] In fact, I intuitively suspect that many court system practitioners and academics would agree that there may be exceptions to the general applicability of the oft-cited national standards.

One possible exception may be attributable to demography. Are the courts in Lebanon, Pennsylvania, run the same way as in Philadelphia, and should they be? Do the courts in Mobridge, South Dakota, or Escanaba, Michigan, or Magnolia, Arkansas, need to follow the same advice as those in Los Angeles, Houston, and Cleveland? In some ways, they probably do; but in many, the differences may be too great.[3] Let us try to determine whether it is feasible to develop distinctive models for rural courts. If it is, then perhaps judges and court personnel from diverse jurisdictions, but with a rural environment in common, can learn from each other, adapt parts of the models to their own situations and work together to improve the administration of justice in their courts.

The Application of Reform Models

It is not necessary here to engage in a critique of the major national court reform standards. Several prestigious national commissions have developed them under the sponsorship of the American Bar Association and the Law Enforcement Assistance Administration. Clearly, they have been important to the significant efforts in court reform over the last decade. Nevertheless, they are products of consensus and uncritically incorporate basic progressive ideals of centralization and faith in experts. Recognizing this, several important articles have been written suggesting the prudence of a reassessment of these standards.[4]

Several points about the standards demonstrate the need for additional work in developing models. One is that standards are most helpful when addressing ends, not means. The means may be variable according to personality, jurisdiction, environment or other factors, without challenging the acceptability of the goal as expressed in a standard.[5] These different means may be expressed as alternative models and some models may particularly focus on the rural environment.

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Another important factor in examining standards and models is the focus one takes at a particular time. In court operations, there are two main foci. One views how the court or court system looks from the inside--how it works and what are the personal interactions and succession of tasks. Concentrating on this aspect emphasizes efficiency in operation. The other principal focus examines the product--how the court delivers services to litigants and citizens in general. Here we fasten attention on the validity and serviceability of work done by the courts. Generally, the existing standards can be said to emphasize the former but some persons see signs of growing attention to the latter.[6] Indeed, while both foci are important in the rural context, the service orientation may be more appropriate since rural courts have traditionally emphasized service more than efficiency. In any event, one should be consistent in working from either one focus or the other at any particular time.

Finally, the existing standards can be frustrating to local practitioners because of their different orientation. The standards tend to look at the "big picture," seeing how all elements interact with one another. In addition, they usually perceive this interaction from the top down in a hierarchical court structure. Individual judges and court personnel may not share this orientation; they must get through each day's business. They sometimes lose sight of the interaction of the parts and they almost never view their work from the top down. They are more likely to see the court operation from its most detailed level. As a result, they often have difficulty understanding, interpreting and adapting the existing standards and the arguments made by their proponents. Models for rural courts may help to bridge the gap between the orientation of the standards drafters and that of the local practitioners; the models may make clear the effect of certain standards and the possibility for adapting and modifying them to suit a particular environment.

The Distinctiveness of Rural Courts

Courts in rural areas are distinct from their metropolitan counterparts in many ways.[7] They often have different operating patterns and experience different problems. They are not, however, entirely different from urban courts. Indeed, rural and urban courts with identical jurisdiction and following the same basic rules of procedure and personnel structures will probably be more alike than different. Nevertheless, the environment of a court has an effect on court operation and management policy, and some distinct characteristics of rural courts can be noted.

The most obvious and most basic factor that distinguishes rural from urban courts is the character of the rural environment. Population density is lower, so the court's jurisdiction must encompass a wider geographical area to achieve a substantial volume of work. In many courts the result is that the judges must "ride circuit," traveling to the several courts for which they are responsible and being present only part of the time in each local court. Other areas have consolidated court services in a central location which means that litigants, witnesses, attorneys, police officers and other persons with court business must travel. Still other courts make use of part-time personnel to avoid these inconveniences. In any case, the effect of the wider geographical area is that the rural court system cannot count on having all the people involved in a matter located in the same immediate vicinity and must depend on and ensure adequate notice and coordination.

Large geographical areas often cause judges and court personnel to feel separated from colleagues and a sense of isolation can develop. Court system personnel begin to lose their sense of participating in a statewide system and important sources of collegial support and understanding are lost when the opportunities for informal contact with other judges, clerks or administrators are reduced. Likewise, state judicial and political leaders may become less sensitive to rural court problems and needs without regular contact with rural court personnel.

The lower population density often means a smaller case load although this observation may not hold in areas frequented by tourists or serviced by an interstate highway. Generally, however, rural courts do not live with the pressure of huge dockets and increasing backlogs. The rate for most violent crimes is significantly lower in the country than in the city. Fewer local practicing attorneys and a less litigious business community can mean a lighter civil case load. While the result of these conditions may seem a great blessing to urban-oriented court personnel, it causes some concern to rural court managers. With a light case load, it is difficult to establish a fully developed court staff so the judge and clerk must combine tasks. The judge may have to be his own secretary, court administrator and law clerk. The clerk may not have any staff at all or only part-time employees and it may be difficult to attract highly qualified persons to these positions.

The smaller case load also creates an economy of scale problem. Because a particular service such as a juvenile treatment program, a small claims court or a drug abuse clinic will be used by relatively few people as compared with urban use, such programs are more difficult to establish. If they were established, the cost-benefit ratio would be low. Yet in a particular rural community, one of these services might be desparately needed and the alternatives available to the rural court system much less desirable.

In addition to the economy of scale problem, rural courts often face a lack of resources. There are many reasons for this condition. The nonmetropolitan community may be poorer since per capita income is generally lower in rural areas and its tax base may suffer from a lack of industry and an abundance of minimally taxed or nontaxable land such as farms and parks. When the local government apportions its resources, it may give a greater amount to agencies with more political appeal and the courts may suffer. In the competition for state and federal funds, nonmetropolitan courts often lose out to large courts that show mounting backlogs and high crime rates. As a result, the rural court must do without items that large courts take for granted, or work in old facilities, or depend on part-time employees and volunteers to help.

One other major difference between rural and urban courts stems from the character of the community. The stereotype of the rural community holds that everybody knows everybody else. This familiarity with one's neighbors presents both potential problems and benefits to the court. It can mean a greater personal attention to each case and more individualized treatment, and it may promote a flexibility, informality and resistance to bureaucracy that can help a court act more swiftly and effectively. On the other hand, increased personal acquaintance in a rural community can lead to favoritism, lack of confidentiality and unequal treatment. Thus, this increased flexibility and informality can sometimes lead to due process concerns, especially when a case involves a litigant from out of town. Rural courts must be aware of these potential dangers and constantly guard against them.

The American Judicature Society has analyzed misdemeanor courts in urban, suburban and rural areas and found a distinct urban-rural dichotomy.[8] The AJS study found that rural courts disposed of misdemeanor cases at the initial appearance far more often than urban courts. Attorneys are more frequently present for misdemeanor cases in urban and suburban areas than in rural areas. When asked about sources of pressure for speedy disposition of cases, rural judges mentioned local government and law enforcement most often, while their urban counterparts cited state judicial system pressure the most. Other differences showed up as well.

Both intuitively and empirically, then, rural courts appear to operate distinctively from metropolitan courts. Because of the difficulties in applying the national standards to most rural courts, the desirability of a set of distinctively rural models, assumptions and options is clearly suggested. The next section briefly sketches what such work could include.

The Major Elements of Rural Court Models

Rural courts can, of course, capitalize on much of the substance of general court reform standards. Those which address ends rather than means, for example, should be equally relevant everywhere the legal system is basically similar even if the means would be variable and those which focus on the product rather than the interior workings also may be helpful. For example, principles of speedy and open trials should be as important in a rural as in an urban setting. Treatment of jurors should be fair and considerate everywhere while also ensuring that a trial jury is representative and impartial. These and many other objectives should not vary from an urban to a rural setting or from town to town.

Others will vary, however. Contemporary standards covering specialization of judges, allocation of judgeships throughout a state and training opportunities are representative of those that typically are not appropriate for a court in an area with a low population density. Similarly, regional and environmental factors may call into question certain standards that relate to centralized management. Further, the uniformity of procedures that inhere in the contemporary court standards may be impractical where local practices and legal culture demand some accommodations.

In general then, rural court models might be expected to demonstrate somewhat more informality, flexibility and responsiveness to individual community values than do models for metropolitan courts. Thereby neighborhood involvement and participation could remain an integral part of rural court operation, thus ensuring the viability of the local court while also strengthening the community.

There are at least three critical policy areas which need to be examined in building rural court models--court organizational types, method of service delivery and professionalism. Properly addressed, they should force policymakers to discuss what kind of services they want from their courts and how best to achieve them.

One fundamental choice concerns professionalism. Should the rural court follow the model of the Progressive Era with emphasis on expertise and extensive legal training, so that the judges and other court personnel understand

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the law and trial process as well as the very best trial lawyer in the state? Or should the rural court emphasize its local community base, selecting its judges and court personnel for their acceptance by and familiarity with local citizens, both lawyer and lay person?

The former alternative is urged by most of the contemporary standards and by experts such as Arthur Vanderbilt and Roscoe Pound. This thinking has led to initiatives designed to "remove the judiciary from politics" by processes such as merit selection. It is predicated on the assumption that the law is a science that must be learned by years of legal training and experience, and that citizens must rely upon these experts to administer justice rather than to exercise their own opinions.

The alternative thinking rejects the "faith in experts" assumption. More democratic in nature, it stems from the belief that the citizenry largely is capable of conducting its own affairs, including the administration of justice. Jury trials are frequent, judges may be elected and in any particular case, there is less emphasis on expertise and more on one's sense of community and community values. Instead of full-time legally-trained judges, the local court may have part-time lay judges.

Most reformers reject this alternative for several reasons, including the fear of dominance by a small clique of the affairs of the courthouse, the possibility that an untrained judge may be unduly influenced by the local prosecutor or some other crafty lawyer and the perceived disparities in court procedures and decisions from one community to another. These objections are largely well-taken but they do not necessarily require abandoning the notion of local community control of its own courts.

A second basic policy area flows from the first. What method of service delivery is most preferable for courts in rural areas? Should services be handled locally so community values are preserved? Should they be centralized so a higher volume of cases might warrant some specialization and some extra services? Or should they be regionalized in an effort to combine some characteristics of both local and central delivery?

Clearly there are advantages and disadvantages to each option of service delivery. In practice, different elements of the justice system are usually organized on a different level. Many states have targeted particular services for centralization such as the control and care of delinquent children and alcohol and drug rehabilitation. Other services such as juvenile court operations may be regionalized so as to take advantage of the benefits of specialization and at the same time preserve a large measure of local structure and control. Finally, routine court matters such as traffic cases may be most conveniently handled on a local level.

Even if the opportunity for this sort of rational decision making were possible in rural areas, the community would be faced with the need to make basic choices. Adjudication of juveniles is a good example. Regional (or central) operation of a special juvenile court may be desirable since the workload would support a full-time judge who has shown particular interest in the problems of juveniles. Such a specialist is likely to be preferable to the judge who is assigned juvenile matters from time to time but who much prefers civil law or jury trials. On the other hand, many communities rightly feel that they have responsibility for their own youngsters and have demonstrated quite a reluctance to have them dealt with elsewhere. Different communities may have different ideas about the degree of seriousness and appropriate responses for particular juvenile crimes and status offenses. Thus, adjudication at some regional center may clash with the important values of any particular community.

The third fundamental policy area concerns the orientation of the people within the court system. It focuses on a tension created by competing state and local allegiances. Is an individual rural court more a part of the state judicial system or the local governmental network? Is the employees' primary allegiance to the judicial hierarchy or the town? This choice includes matters such as uniformity in procedures and forms, political alliances with state judicial or local government colleagues and the independence of the individual court.

If one's support, particularly in financial terms, comes from the state, then one's primary allegiance would tend to be toward the state judicial system. Statewide committees would be more likely to prepare rules of procedure and legislative proposals, and the individual courts would act as units of a larger branch of government. Local allegiance, on the other hand, is more likely to result from local funding and popular election of judges and clerks of court. Typically, local orientation has been observed to frustrate attempts by the state supreme court to impose central coordination and management so that staff expertise in court management does not develop and shared resources within the judiciary are less common. Nevertheless, local orientation preserves community control and frequently the individual trial judge becomes a dominant member of the local community.

A significant problem for the courts occurs when this orientation is mixed. A judge may look to the local community for election but to the state government for funding and rules of procedure. The judge and the entire court operation can become caught in the tension between these two poles.

These basic alternatives do not present choices that are necessarily right or wrong. The choices should come from the values and prevailing norms that operate in the justice system. Once a court makes these choices, however, the main outline of its model for court operations is set.

Carl Baar and Thomas A. Henderson have recently constructed three alternative models for court systems.[9] These models show the kind of products that rural courts analysts may want to develop or adapt. Baar and Henderson's models are alternative organizational designs to the hierarchical, centrally-controlled characteristics of the traditional court reform standards. Each emphasizes a different area for local control.

One model is the "franchise model," borrowing a page from the book of local retail outlet franchising in the private sector. "Franchised courts" could lead to uniform standards in procedure and central rulemaking but funding and management would be local. In administrative oversight, the Supreme Court would be mainly concerned with quality control, i.e., compliance with the uniform standards.

Another of the Baar-Henderson models is the "corporate model" which emphasizes central funding but leaves many procedural matters to local preferences. Central funding would minimize local political pressure that other-

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[1] See American Bar Association, Standards Relating to Court Organization (Chicago: ABA, 1974), and National Advisory Commission on Criminal Justice Standards and Goals, Courts (Washington: GPO, 1973).

[2] See Geoff Gallas, "Court Reform: Has It Been Built on an Adequate Foundation?" Judicature 63 (1) (June/July 1979): 28-38.

[3] See Thomas Church, Jr. et al., Justice Delayed: The Pace of Litigation In Urban Trial Courts (Williamsburg: National Center for State Courts, 1978), for an informative discussion of the differences created by "local legal culture."

[4] See Gallas, op. cit., and Gallas, "The Conventional Wisdom of State Court Administration," 2/1 Justice System Journal 35 (1976). For reply to Gallas, See Dale W. Good, "Court Reform: Do Critics Understand the Issues?" Judicature 63 (8) (March 1980): 365-75.

[5] Victoria S. Cashman and Theodore J. Fetter, State Courts: Options for the Future (Williamsburg: National Center for State Courts, 1979), passim.

[6] Cashman and Fetter, op. cit.; and Fetter, ed., State Courts: Blueprint for the Future (Williamsburg: NCSC, 1978); and the forthcoming report from West Publishing Company on the 1976 Pound Revisited Conference.

[7] The following is adapted from Theodore J. Fetter and E. Keith Stott, "Rural Courts: Trends and Implications," State Court Journal 1 (4) (Fall 1977): 6-7.

[8] James J. Alfini and Rachel N. Doan, "A New Perspective on Misdemeanor Justice," Judicature 60 (9) (April 1977): 427-434.

[9] Carl Baar and Thomas A. Henderson, "Organizational Designs for State Court Systems," paper delivered to the Law and Society Association, June 1980.

[10] See Earl Johnson, "Toward a Responsive Justice System" in State Courts: A Blueprint for the Future (note 6, above), and Earl Johnson et al., Outside the Courts: A Survey of Diversion Alternatives in Civil Cases (Denver: NCSC, 1977), and works cited in both places.

[11] See, e.g., Earl Johnson et al., Outside the Courts, op. cit.

[12] Conversation with Geoff Gallas, Summer 1980.

[13] Laura Nader, "Complainants Beware," Psychology Today (December 1979): 98.

[14] Ibid.

wise might inordinately influence funding decisions but the local characteristics could help determine questions of management and procedure.

Finally, Baar and Henderson sketch a "federal model" essentially incorporating central support of a series of local managing units. The individual courts exercise their own management but they share the resources of the central staff for technical assistance and various support services.

These are only a few of the promising models which could be developed to illustrate the alternatives for rural court organization and operation. They may help policymakers identify characteristics which they want to preserve in their own courts and those which they want to avoid. The trade-offs inherent in choosing between central and local control, between the desire for efficiency and the desire for quality service and between professionalism and local values would not be avoided but they would at least be squarely addressed in the policymaking process.

Using Rural Court Models

The section entitled "The Distinctiveness of Rural Courts" above describes certain characteristics of rural courts. At first glance, many of them seem negative: the lack of resources, isolation from colleagues, the empirical finding of frequent criminal adjudications without attorneys present, and the like. However there are also several positive characteristics distinct to rural courts. Greater flexibility and informality, a feeling that court personnel and litigants are not controlled by the docket but that the people control the docket, are among the strengths that seem to be part of the operation of many rural courts.

The development of rural court models should emphasize these strengths. They would preserve what is good about court operations in rural areas and suggest improvements in areas where they were needed. The models would be based on responsiveness to the community and legitimate the values of flexibility, informality and the like.

At present these qualities are merely perceived characteristics of rural courts. Incorporated into models, however, they would become legitimate and viable alternatives to the current court standards based on centralized management, uniformity and hierarchical control. Choices and compromises between centralization and decentralization could be discussed and decided upon. The "standards," then, could become a more diverse set of principles and alternative means of achieving the principles. Diversity, where appropriate, could be condoned and even encouraged.

This development toward a kind of ecumenicism in court organization and operation would be desirable on at least two levels. First, it would be good for courts in rural areas since it would encourage policymakers to adopt the options and alternatives most suited to their environment. Second, and more basic, this development might lead to improvement in court operations in nonrural areas as well.

Flexibility and informality, which we have assumed to be characteristics of rural areas, are receiving greater emphasis in urban court development. Alternatives to the full and formal adjudication process are being developed in the form of arbitration, mediation, consumer boards, conciliation and neighborhood justice centers.[10] Many of these experiments use flexibility and informality as their hallmarks and their proponents gladly relate their advantages.

Is "neighborhood justice" the direction in which metropolitan areas are heading to solve their problems in dispute resolution? Is there a genuine movement away from formal adjudication? The answer is unclear. Some writers believe that community pressures and increased volume are forcing such a movement.[11] It may be, however, that much of the business of the neighborhood justice centers does not derive from disputes that formerly went to court but from those that formerly were addressed in a more informal way such as by family or church mediation.[12] If so, then the use of neighborhood justice centers is actually an increasing level of formality in dispute resolution. Clearly, more research is necessary.

There is little doubt, however, that there are increasing pressures on our courts and our system of justice in both rural and metropolitan areas. Society has for several decades become more conscious of the "rights" of individuals and groups but for every right we endorse, a remedy must be provided.[13] Litigation, however, grows more expensive and more time-consuming. One response to the combination of the pressure to go to court and the expense and time involved in court proceedings has been the initiation of "class action" lawsuits in which similar claims from many persons against one person or company are aggregated into one legal proceeding. Class action suits help open the courts to many persons who, on their own, would not have been able to afford to file suit on a particular claim and for that reason they are a positive innovation. However they also represent a significant departure from the traditional orientation of our system of law: the adjudication of individual disputes based on the facts and law surrounding an individual action. Class action suits lump individual suits of a similar character together.

Laura Nader and others have proposed ways of achieving a bulk processing of disputes which significantly expand upon the development of class action suits.[14] Certain classes of disputes would be dealt with together based on general characteristics and overall policies rather than on the facts in an individual case. As these developments take place, traditional litigation based upon an individual dispute might become less and less common. Society may decide that individual dispute resolution in the courts takes a great deal of public resources considering that only the immediate parties are involved in the case.

If policymakers become forced to reserve the traditional process of litigation for only certain exceptional cases, they also may want to consider ways to make that process simpler and more flexible. In short, and somewhat ironically, they may want to adapt rural court practices to nonrural courts and maintain simple and informal options within the adjudication process. Such adaptation requires the development of rural court models so that others--not in a rural environment--may examine them. It is possible that for traditional adjudication to survive in all but a few exceptional cases, it will have to be simple, direct, flexible and informal. These are the perceived characteristics of adjudication in rural areas but they may become the necessary qualities of adjudication everywhere.

Editors' Notes

1. Fetter and his National Center for State Courts colleague, E. Keith Stott, Jr., have produced several works focusing on rural courts which can provide much of the foundation for the development of rural court models:

- E. K. Stott, Jr., and Fetter, T. J., Rural Courts--The Effect of Space and Distance on the Administration of Justice, National Center for State Courts, 1977, details the problems peculiar to rural courts as they affect court operations--i.e., records management, training, etc. After examining case histories, they suggest solutions such as multi-use court/jail county courthouse facilities, volunteers for corrections programs, support of juvenile and probation programs, and jury management systems to overcome space and distance problems. They also provide an index of innovative projects and a selected bibliography.

- In "Rural Courts--Trends and Implications," State Court Journal, Vol. 1, No. 4, pp. 6-8, 35-39 (Fall 1977), they report the results of an eighteen-month investigation of the concerns and needs of rural courts. The distinctive characteristics of rural courts are pointed out with special attention to their relationship to the rural environment and the differences between rural and urban communities. They note that the solutions to many of these problems usually entail increased funding, greater citizen participation and improved technological means to deal with space and distance obstacles. Alternative approaches to training are discussed and guidelines for developing rural court policies and programs are suggested. Significantly, they conclude that strategies for improving justice systems in rural areas should be based on institutional precepts which strengthen and reflect the advantages of rural communities and traditions rather than on making those communities dependent components of larger regions.

- An abbreviated combination of these two works appears in Fetter, T. J., "Rural Courts," A Beginning Assessment of the Justice System in Rural Areas, National Rural Center, 1977.

2. One of the cornerstone examinations of modern court management problems is found in Alfini, J., Documentation and Prioritization of Misdemeanor Court Management Problems and Proposed Management Innovations, American Judicature Society, 1977. It reported on surveys and onsite visits which confirmed the considerable difference in management problems of urban and rural courts. For example, rural court case backlog occurs at the initial appearance because most cases are resolved with a guilty plea. Urban court backlog occurs at the plea bargaining stage because of greater availability of attorneys and negotiation.

3. It is apparent from a review of the literature that rural court demonstration or experimental programs are scarce. One notable exception was a statewide project designed to overcome the inadequate resources for legal research which often pose problems for local rural judges. See Peters,

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G. W, Rural Legal Research--Creighton Legal Information Center--An Exemplary Project, Superintendent of Documents, GPO-Washington, Washington, D.C. 20402 (Order No. 027-000-00497-1), 1977. Through this project, the research resources at the Creighton University Law School in Omaha, Nebraska, were combined with student researchers to provide Nebraska rural judges, prosecutors and court-appointed defense counsel legal research tailored to user needs on request. The initiative was designated an Exemplary Project by the National Institute of Justice.

CHAPTER IX

CRIMINAL DEFENSE IN RURAL AMERICA

by Howard B. Eisenberg

It was only sixteen years ago that the United States Supreme Court in Gideon vs. Wainwright[1] determined the Sixth and Fourteenth Amendments to the United States Constitution required that state or local government provide counsel to indigent persons charged with non-capital felonies. Since that historic decision, the Court has extended the right to counsel to persons who desire to appeal their criminal convinctions,[2] to children faced with the possibility of adjudication as delinquent,[3] to persons charged with misdemeanor offenses carrying the probability of incarceration upon conviction,[4] to many pretrial and post-trial proceedings in criminal cases[5] and to virtually any other situation in which a person faces the probability of substantial deprivation of liberty by some governmental action.[6] Prior to these decisions, except in those few states which recognize the right to counsel,[7] an individual who was too poor to retain an attorney was required to go to trial without a lawyer and face the consequences.

There can be little doubt that the introduction of counsel into felony, misdemeanor, juvenile and civil commitment cases has had a profound effect on all aspects of the criminal justice system. At the same time the United States Supreme Court was extending various constitutional rights to persons accused of crime, the public was becoming increasingly concerned with the level of violent crime in our nation's cities. The seeming clash between the mandates of the United States Supreme Court and the community's concern about crime led to numerous attacks on the Supreme Court including calls for the impeachment of several of the Court's more liberal members, specifically Chief Justice Earl Warren and Associate Justice William O. Douglas. We have now reached a time, however, when we are able to step back from the initial shock of Gideon and its progeny and recognize that the availability of counsel to poor people in the criminal courts has been a major step forward for the criminal justice system by virtually any measure. Even the harshest critics of the Warren Court decisions today do not call for a return to the days in which a person could be sent to prison for years on end without the benefit of counsel.

While the political and philosophical debate regarding the propriety of the Warren Court decisions continues, the impact of the right to counsel cases on local units of government has been less clearly explored and understood. In the majority of jurisdictions in this country the criminal justice system is funded by the county. Even in those states in which there is state funding for such services, the amount allocated to the courts, prosecutor and defense function remains a small percentage of the total budget dollar.[8] The right to counsel decisions of the United States Supreme Court have significant fiscal ramifications on local units of government. Obviously, state and county governments had no way of anticipating the decisions of the Court and certainly did not budget funds in anticipation of a decision requiring them to pay for lawyers for poor people. From 1963 through 1972, the United States Supreme Court gradually placed upon county governments the burden of paying for lawyers in a series of situations theretofore not required and not budgeted.

The immediate impact of the Gideon Decision was most significantly felt in urban areas which had a significant rate of felony crime. In most rural areas, however, the majority of criminal offenses were misdemeanors not covered by Gideon and not thereby subject to the Sixth Amendment right to counsel. Indeed, a number of state courts specifically construed Gideon to apply only to felony cases and not to the more numerous misdemeanor offenses.[9] Many urban areas had already geared up for the provision of legal services to a significant number of people through organized defender systems. In these models, full-time staff attorneys -- either as employees of the county or as employees of a nonprofit corporation -- provide direct representation to persons charged with crimes. This was the model in place in the largest cities in the country prior to Gideon and it has generally been the model followed by virtually every other city of more than a quarter of a million people.

Generally, rural response to the Gideon Decision was for the court to assign private counsel to provide representation. The manner of assignment and compensation varied dramatically from jurisdiction to jurisdiction but the number of cases was sufficiently small to allow even a poorer jurisdiction to supply counsel at some rate of compensation. The decisions which followed Gideon, however, placed a more severe strain on rural communities' budgets. Particularly the Gault Case, extending the right to counsel to children facing adjudication as delinquents, and the Argersinger Case, extending the right to counsel to persons charged with a misdemeanor which would probably carry with it incarceration upon conviction. In many ways the Gault Decision has a larger impact on rural than on urban counties. Almost every state has various levels of proceedings which may be instituted in the interest of a child. A delinquency petition is generally the most serious type of action that can be taken and usually follows the unsuccessful attempt to treat the child through less stringent alternatives. In many rural jurisdictions, however, the treatment available on the local level through less stringent alternatives is often inadequate and is not pursued for that reason. In such cases children are referred to a state system through a delinquency proceeding while they may not have actually committed an offense which would have been criminal if committed by an adult or which would not have resulted in a delinquency proceeding against an urban child. The number of children committed for such noncriminal "status offenses" from rural areas was usually proportionately greater than such children coming from urban areas. Thus the Gault Decision placed upon the rural county a new burden to supply counsel in these cases which were being shunted off to the state system, primarily due to the lack of adequate treatment resources on the local level and not the severity of the child's actions.

The most significant case, however, was Argersinger. In Argersinger, while the Court specifically declined to apply the right to counsel to every misdemeanant, it ruled that the right to counsel applied when the judge made a pretrial determination that, if convicted, the defendant would probably go to jail. While the difficulty of applying this rule has been stated and a broader rule advocated, the Court in Scott vs. Illinois[10] reaffirmed the Argersinger rule and rejected a more general rule by a five to four vote. Several state courts, however, have ruled that the Argersinger test is too difficult to apply on a case-by-case basis and have extended the right to counsel to all persons charged with misdemeanors as a matter of state law.[11]

The number of persons charged with misdemeanors can easily be ten times that of the number of people charged with felonies in an urban area. In rural areas the number of misdemeanors can exceed that of felonies by twenty or thirty times. It can thus be easily seen that the Argersinger Decision had far-reaching implications for rural justice.

Combined with these decisions has been the gradual increase in the number and severity of crimes occurring in rural areas.[12] While prior to the 1970s the level of crime occurring in rural areas was rather small and basically confined to property offenses, the last decade has seen an increase in rural crime and the violent nature of such offenses.[13] The explanation for this phenomenon is beyond the scope of this presentation but one can certainly identify some factors such as the spread of suburbs to traditionally rural areas, the general increase in the level of violence in our society and the overall mobility of population from urban to rural areas, which have contributed to an increase in crimes in rural areas.

The identification of the right to counsel in criminal cases by the United States Supreme Court led to a second phenomenon: the concept of ineffective representation by counsel. State and federal courts soon recognized that the right to counsel was a meaningless gesture unless counsel was adequately prepared to provide representation in a given case and was generally familiar with the criminal law to take appropriate action on behalf of a client. It soon became apparent that in many jurisdictions the inability to compensate counsel for indigent representation resulted in wholesale ineffectiveness being provided through those attorneys assigned by the court. In recent years there has been an increasing awareness of the fact that a perfectly competent and effective civil lawyer may provide routinely ineffective representation in a criminal case.[14]

The expansion of the right to counsel, coupled with the developing concept of a bar specializing in criminal law, has created particular problems in rural areas. As noted above, rural areas have primarily relied upon court-assigned private counsel to fulfill the constitutional mandate. As the law expanded and counsel was required in more cases, the assignment of private counsel became a significant financial burden to rural areas. In addition, virtually every appellate court in the United States was constantly updating and expanding the criminal law to such an extent that it was impossible for a civil practitioner to provide adequate representation in a criminal case. In rural areas where the number of criminal cases was quite low, these problems were more severe. While in urban areas there has developed a nucleus of criminal lawyers, in rural areas there is insufficient business to support such a speciality bar. Thus, in many rural areas the courts and local governments are now faced with a significant number of cases in which publicly-compensated counsel is required but an inadequate number of lawyers are available who can provide effective criminal representation.

Prior to Gideon and its progeny, courts in rural areas were run in a traditionally informal manner. It was not unusual for the presiding judge to know virtually every criminal defendant that came before the court. The judge was able to fashion a remedy and disposition which he felt was appropriate to meet the particular needs of the individual defendant. Legal formality often gave way to this paternalistic yet compassionate handling of criminal and juvenile matters. Since counsel was usually not involved in the cases, there were no legal technicalities to overcome. Motions were not filed, arguments were not made, and the case basically came down to the judge making some type of factual determination of guilt and then deciding what type of disposition was most appropriate.

The advent of counsel in criminal cases initially had only a minor impact on the system which had developed in the rural criminal courts. Court-assigned lawyers, particularly in these areas, had no desire to upset the traditional manner of handling criminal cases. For that reason, along with the lack of particular criminal law expertise, there was no motivation or interest in filing technical motions or making the types of arguments that were increasingly being heard in the urban criminal courts. The court assigned defense counsel and the retained defense counsel often became part of the same system as the prosecutor and judge--all looking for a compassionate disposition of the case, whether or not the proceedings met with all of the legal technicalities required by the Constitution and statutes.

Representing persons accused of crime is often not appealing to attorneys. In rural areas where there are fewer lawyers, it is more likely that the assigned attorney will not be completely comfortable representing those accused of committing a serious or violent offense. While a few well-known civil attorneys may be able to enhance their reputations by providing representation in the occasional "big" criminal case, the publicity value of the typical criminal case is quite small. Since the great majority of cases in both the rural and urban areas are disposed of without trial by a negotiated plea, attorneys usually gain little experience from representation in criminal matters.

While every member of the bar is theoretically competent to provide representation in any case--from criminal, to probate, to patent law--the fact is that most attorneys lack expertise in more than one or two areas. In rural communities, one of these areas is NOT likely to be criminal law. Moreover, few lawyers who do little criminal law have developed the necessary philosophical commitment to zealous representation of the accused. Frankly, some persons accused of crime are nasty, unpleasant individuals who have committed horrendous acts. The strong community feeling against the defendant along with the enormity of the technical requirements of a complex criminal case can overwhelm many otherwise skilled attorneys. While it is always dangerous to generalize, it is simply a fact that in rural America there is less criminal work than in urban communities and as a consequence, there are fewer lawyers who have the time, expertise, competence and philosophical commitment to provide defense representation.

A number of factors have resulted in a gradual change from the traditional model of a rural criminal court. One of these factors, as noted above, has been the development of a concept of ineffective representation. Other factors include the gradual retirement of judges familiar with the old-time system and replacement by young lawyers who received a thorough education in criminal law while in law school. Moreover, virtually every rural court has been subjected to the skilled criminal practitioner from an urban area who is able to wreak havoc with a rural judge not familiar with the evolving law. Finally, the nature of crime has changed. Rural courts are no longer dealing with tavern brawls and minor theft but are being faced with violent street crime including murder, rape and armed robbery.

Thus as we begin the 1980s, we find that rural communities in particular are under significant pressure to find alternatives to the traditional method of assigning private attorneys in criminal cases. The increase in the number and types of cases in which the courts have mandated that counsel be appointed, the concern of the taxpayers for reduction in taxes, the relatively few lawyers in rural areas competent to provide criminal representation, and the increase in the number of criminal cases in rural areas have resulted in increased costs, decreased quality of representation and a general dissatisfaction with the present method of providing counsel. The following are various alternatives being explored.

Continued Reliance on the Private, Court-Assigned System

Still, the majority of rural jurisdictions in the United States rely on individual attorneys assigned and compensated on a case-by-case basis by the court. The advantage of this system is that it allows a maximum number of lawyers to be involved in the representation of indigents in criminal cases, thereby exposing the bar to this type of representation and ensuring a general awareness on the part of the bar to the problems of the criminal defense attorney and the criminal justice system generally. There are a number of serious disadvantages, however. As noted above, some of these disadvantages are the lack of an adequate number of attorneys in many counties to provide such representation, the lack of attorneys competent to handle criminal cases in most areas and the increased cost of assigning counsel. It is now not unusual for attorneys even in rural areas to be charging between $50 and $75 per hour for retained work and to require such compensation to adequately run a law office and make a living. While it is usually anticipated that counsel will provide representation in a court assigned case at less than the standard hourly rate, the fact is that inflation has been gradually pushing up the rate paid to counsel. In all too many jurisdictions, private counsel must choose between a private client paying $75 per hour and a court-assigned case in which he or she is being compensated at twenty-five or thirty percent of that hourly rate. Few attorneys desire court-assigned work under such circumstances.

In addition to these problems, the court-assigned private counsel system is usually dependant upon the judge's assignment of a specific attorney. This means that the defendant does not get an attorney until he or she comes to court and is thereby denied representation in the earlier stages of the proceedings when critical representation is required.[15] Such a system of court assignments has the appearance of impropriety and, indeed, has often been criticized as being a traditional political patronage system. In most jurisdictions which utilize court-assigned counsel for indigent cases, there are no defined criteria for counsel, no specific rotation and the system has been universally criticized as being an inappropriate manner of providing representation.[16]

Coordinated Assigned Counsel System

A coordinated assigned counsel system is one in which the judge has delegated--or the county has transferred the authority--to assign counsel to an administrative individual; sometimes a court clerk or deputy, sometimes a professional administrator. Attorneys who desire to receive publicly compensated cases submit resumes to the administrator of the system who then screens attorneys to ascertain which are qualified to provide representation in which case. While the theoretical model is that counsel is certified according to specific standards, reality has been that few jurisdictions have adopted such specific criteria and then not as part of an assigned counsel system but rather as part of a mixed public defender/private bar system. Under the model coordinated assigned counsel system, counsel is assigned on a rotating basis without consideration of political patronage or other inappropriate factors. The judge should have little to do with the assignment or compensation of counsel.

Contracting With Local Law Firms

In some jurisdictions such as the state of Michigan,[17] the county has contracted with private lawyers or law firms to provide representation in all or a significant number of cases, usually at a very low cost per case. This system has the overwhelming advantage of allowing the county to project in advance virtually all of the costs of providing defense representation except for the rare conflict of interest case. Such a system of contracting with local lawyers or law firms is fraught with difficulty. First, there is no guarantee that the firms with which the county contracts have qualified lawyers to provide representation in criminal cases. Indeed, the level of compensation is frequently so low as to guarantee ineffective representation. In San Diego County, California an experiment is now being undertaken to determine whether a coordinator with an extensive background in criminal law can select a firm with which to contract. While the rate of compensation seems low,[18] the attorneys participating appear satisfied and indicate they are still able to run an office on the amount received.

Even assuming that the representation afforded through such a contract system is effective, this system shuts out virtually the entire bar from providing representation in criminal cases. Moreover, the system places an emphasis on doing the constitutionally required for as little money as possible, a dubious policy not usually applied to professional services. Often the judge is the person who acts as the contracting officer, thus again raising the appearance of impropriety. Indeed, the history of such systems in some states has demonstrated that the judge has an extraordinary voice in the type of contract and who is awarded the contract. Thus, the contract system solves only one of the problems of the jurisdiction--that is, projecting the cost of providing counsel.

Public Defender System

A public defender is an attorney who is paid a salary either by the government or by a nonprofit corporation for providing representation to persons charged with crimes. A public defender can be either full-time or part-time. In the United States today there are public defender offices with one attorney working part-time and offices with as many as 400 staff attorneys working full-time. In urban areas public defenders have been established primarily because they are considerably less costly than the appointment of the private bar. In addition, most jurisdictions have found the quality of representation provided by the public defender offices is at least as good if not better than the representation provided by the private bar. This is particularly true of those urban areas in which there has developed a cadre of private attorneys who "specialize" in handling publicly compensated cases. Often these attorneys are less skilled in criminal law and provide less than effective representation.

The establishment of public defender systems is not the complete answer. Initially in order for a public defender to be cost efficient for any jurisdiction, that jurisdiction must have sufficient case load to afford an office. Since the cost efficiency of a defender office becomes greatest when there is more than one attorney, cost efficiency suggests that a two- or three-attorney office be created at a minimum. One of the problems is that often a public defender is underfunded just as private counsel is inadequately compensated. A public defender may also be dependent for his or her job on the judge or county board and thus may absorb many cases without adequate compensation or staff, or may sometimes be less than zealous.

Gradually through such organizations as the National Legal Aid and Defender Association, standards have been developed for case load, independence, training and management. While these standards have had a significant impact on the criminal justice system, many counties still cling to the old models of defender systems which may combine the worst of each alternative.

A Mixed System

The newly-drafted second edition of the American Bar Association Standards for Providing Defense Services[19] recommends that a mixed system, using both public defenders and the private bar, be available in every jurisdiction. Indeed, virtually all authorities agree that this is the preferable manner of providing representation. The state of Wisconsin has led the way with the drafting of a model public defender statute which combines the best aspects of a public defender system. Thus costs are reduced, quality is increased, the private bar retains a role in the provision of legal services and a political nucleus is maintained for support of the criminal justice system generally.

Since the United States Supreme Court has made it clear that it is inappropriate for a public defender to provide representation to codefendants when there is any possibility of a conflict,[20] some provision for handling conflict cases must be made by each jurisdiction.[21]

A mixed public defender/private counsel system still does not answer the problem presented by rural jurisdictions which have insufficient numbers of cases to support a public defender office or to support a coordinated system of assigned counsel. This has led to explorations of multi-county defenders in which a region is large enough to support a public defender/assigned counsel system. Since a multi-county approach requires cooperation among various counties and since such cooperation has not always been forthcoming, this alternative has been received with only limited enthusiasm in many localities, although in other areas it has worked well.

Appellate Defenders

Several states[22] have established a separate defender office to handle only appeals and other post-conviction proceedings. Such offices handle cases arising both in urban and rural areas. Inasmuch as criminal appellate representation is a subspeciality, it is often difficult to find competent appellate counsel in rural areas and the cost of such representation is often quite high. A statewide appellate defender results in a shift of costs from the county to the state and, in at least one state,[23] resulted in a decrease in the cost of representation, although that is not a universal experience.[24] A statewide appellate defender affords the jurisdiction the opportunity to see if a statewide office can work and allows the judiciary and bar to become accustomed to working with defender offices. In Wisconsin the appellate defender system led to the creation of a statewide combined system. Even where that does not occur, however, the evaluations of such offices reveal that, without exception, the quality of representation has improved under appellate defender offices.

Statewide Systems

In an effort to overcome the conflict among counties, various states have turned to state funding of public defender systems. This transfers the entire financial obligation from the county to the state while maintaining the benefits of a mixed system utilizing coordinated private attorneys with public defenders. At the same time, a statewide system is able to provide regional public defender offices which make the system most effective and efficient.

Overall, with the exception of areas in which the case load is so sparse as to make travel distances prohibitive, a mixed system with coordinated private counsel and a well-run public defender office probably holds the best possibility for ongoing models in the provision of legal services in rural areas.

While saying that, however, one must be cognizant of the very real political difficulties in establishing a statewide system to supplant county systems, even when there is a transfer of financial obligation from the county to the state. County officials generally assert the state cannot administer programs as well as the county (and the federal government cannot administer programs as well as the state) and that with a statewide system of public defenders comes statewide control of the defense function, whatever that might mean. Indeed, it is true that with the development of statewide systems has come statewide standards which often preclude counties from following the "good old boy" system found in many jurisdictions. While some judges and lawyers would perceive state involvement as inappropriate, an objective evaluation might well reach the opposite conclusion. There can be little question, however, but that the creation of public defender systems by governmental agencies outside rural counties has created the impression of a traditionally local function.

Conclusion

In retrospect, there are some conclusions which can be drawn regarding the types of systems which have been utilized to provide counsel since the Gideon Decision. First, the ad hoc appointment of counsel method, whereby the judge appoints a private attorney in accordance with that judge's own concept of quality, fairness and competence, has not worked. This is the universal judgment not only of those organizations which have studied the matter closely, but also of many jurisdictions which have independently arrived at the same conclusion. Secondly, the lack of adequate funding to the counties and the desire to protect one's turf from outside intrusion have become primary issues in the development of adequate defender systems nationally. Thirdly, rural areas have only in the last five to seven years begun to look beyond the ad hoc appointment system to alternative methods of providing counsel.

Recent years have demonstrated a gradual shift to coordinated systems utilizing both public defenders and private bar. Even in those areas which utilize the private bar most extensively such as Texas, initial consideration is now being given to some coordination of that system which would ensure quality while controlling costs. Virtually every experiment in the provision of legal counsel has demonstrated that where the ad hoc assistance of counsel was in place, there were manifest shortcomings in provision of legal counsel. This will impact on rural areas most directly since rural areas rely most heavily on private counsel assigned in this manner. It is quite probable that in the next few years rural jurisdictions will begin looking for alternatives to assigned counsel. Some of these alternatives such as contracting with private law firms will not generate the kind of quality representation essential to adequate delivery systems. Other systems such as coordinated assigned counsel systems, mixed coordinated and public defender systems, and properly-run state systems will eliminate some of the most serious problems inherent in the rural areas of this country with provisional legal services.

NOTES

[1] 372 U.S. 335 (1963).

[2] Douglas vs. California, 372 U.S. 353 (1963).

[3] In re Gault, 387 U.S. 1 (1967).

[4] Argersinger vs. Hamlin, 407 U.S. 25 (1972).

[5] E.g., Mempa vs. Rhay, 389 U.S. 128 (1967) (sentencing); Gagnon vs. Scarpelli, 411 U.S. 778 (1973) (parole revocation hearing).

[6] Civil mental commitments, Lessard vs. Schmidt, 349 F. Supp. 1078 (E.D. Wis. 1970) (three judge court) (subsequent citations omitted); civil contempt, Ferris vs. State ex rel Mass, 75 Wis. 2d 542, 249 N.W. 2d 789 (1977).

[7] Those states included: Arkansas, California, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Utah, Washington and Wisconsin, 23 C.J.S. Criminal Law, §982 (3), pp. 953-959.

[8] The entire criminal justice system receives less than ten percent of total governmental expenditures while defense services receive approximately one percent of that ten percent. See Sourcebook of Criminal Justice Statistics produced annually by LEAA.

[9] E.g., State ex rel Plutshak v. State Department of Health and Social Services, 37 Wis. 2d 713, 155 N.W. 2d 549 (1968).

[10] _____ U.S. _____, 59 L. Ed. 2d 383 (1979).

[11] Potts vs. Estelle, 529 F. 2d 450 (5th Cir. 1976); State ex rel Winnie v. Harris, 75 Wis. 2d 547, 249 N.W. 2d 791 (1977).

[12] In 1976 the increase in the crime index total for communities of 10,000 or less was in excess of twenty percent while for communities of 10,000 or more, the increase was approximately fifteen percent, LEAA Sourcebook, 1976.

[13] Ibid.

[14] E.g., United States vs. Decoster, 487 F. 2d 1197 (D.C. Cir. 1973), see note, "Effective Assistance of Counsel: A Constitutional Right in Transition," 10 Val. L.R. 509-555 (1976); Note, "Ineffective Assistance of Counsel and Harmless Error Rule: The Eighth Circuit Abandons Chapman," 43 Geo. Wash. L.R. 1384-1406 (1975); Waltz, "Inadequacy of Trial Defense Representation as a Ground for Post-Conviction Relief in Criminal Cases," 59 Nw. U.L.R. 289 (1954); Salsberg, Steven A., "The Harm of Harmless Error," 59 Va. L.R. 988-1032; Bines, Harvey E., "Remedying Ineffective Representation in Criminal Cases: Departures from Habeas Corpus," 59 Va. L.R. 927-987 (1973); Mause, "Harmless Constitutional Error: The Implications of Chapman vs. California," 53 Minn. L.R. 519 (1969).

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[15] Criminal Justice, Providing Defense Services (2nd ed., 1979), Standard 5-5.1; National Legal Aid and Defender Association, Guidelines for Legal Defense Systems in the United States (1976), Chapter 4, "Early Representation."

[16] E.g., ABA Standards, Providing Defense Services, (2nd ed.) Standard 5-2.1; NLADA Guidelines, Chapter 8, "The Ad Hoc Assigned Counsel Approach."

[17] See National Center for Management, Michigan Statewide Study of Defense Services, Phase I, (1978).

[18] The compensation of $50 per case for misdemeanors; $100 per case for juvenile cases and $250 per case for less serious felonies. Attorneys in serious felony cases are paid by the hour.

[19] See note 15, supra.

[20] Holloway vs. Arkansas, 435 U.S. 475 (1978).

[21] See Schmerling and Eisenberg, "The Impact of Holloway," NLADA Briefcase, June, 1979, pp. 84-96.

[22] Those states include California, Illinois, Indiana, Michigan, Minnesota, Oregon and South Carolina. Wisconsin had such an office but it is now part of a statewide combined trial and appellate system.

[23] In Wisconsin the cost of providing appellate representation ran about $800 per case in 1971 when the state appellate defender began to handle the bulk of such cases. In 1977 the defender's cost per case was still under $600.

[24] In California, however, the defender's cost per case is in excess of $2,000, while the private bar's cost per case is less than $700.

Editors' Notes

1. A prevailing suspicion is that the assigned counsel systems, so overwhelmingly prevalent throughout America a couple of decades ago and still the rule in rural areas, fail to provide effective counsel to indigents. In the late 1950s an interesting study on the subject was conducted by Willcox, B.F. and Bloustein, E.J., "Account of a Field Study in a Rural Area of the Representation of Indigents Accused of Crime," *Columbia Law Review*, Vol. 59, No. 4, pp. 551-574 (April 1959). The study grew out of the belief that assigned counsel systems had not been improved or supplanted in rural areas because--among other reasons--critics of the systems usually focused their attention on metropolitan areas, assuming that similar systems in rural areas were working well enough. In addition to discovering that there was some truth in this assumption, it also underscored several major shortcomings in the system--many of which were noted by Eisenberg. To the extent that the system did work well in rural locations, the authors attributed this success largely to the basic impartiality of individual judges and prosecutors. The obvious drawback of this virtue is that it is not so much guaranteed by the criminal justice system as it is dependent on the incumbency of particular individuals. Hoping to stimulate further study and action, the account concludes with a recommended "minimum" standard of six basic elements for legal representation of indigents.

2. In a more recent examination, the assigned counsel system in rural Latah County, Idaho was assessed and measured against the minimum standards developed by the National Legal Aid and Defender Association in Hubbard, R.D., "Feasibility Study Concerning the Establishment of a Public Defender Office in Latah County, Idaho," Washington State University, Master's Thesis, 1973 (NCJRS Accession #09900.00.059393). After determining the standards could not be met by the existing system, Hubbard proposed the creation of a public defender system which encompassed the composition and responsibilities of an advisory committee, the establishment of standards for the system, and the operation and evaluation of the defender office.

3. Only scant treatment of the rural prosecutor appears in the literature. *A Handbook for the Rural and Small Office Prosecutor* has been prepared by the National District Attorneys Association, 666 North Lakeshore Drive, Chicago, Illinois 60611. The handbook provides guidelines and advice on policies, planning, administration, and operations for rural prosecutors' offices. See also Thorne's treatment of the rural prosecutor's office cited in the editor's notes following the Eisenstein presentation.

CHAPTER X

RURAL PRETRIAL SERVICES

by Stephen F. Wheeler

The bail reform movement of the past two decades has been a predominantly urban phenomenon.[1] Most major cities in America are now served by some sort of pretrial release program. Its expansion to rural areas has been inhibited for several reasons. Judges and court officials question the relevance of a release program when constituents have been their lifelong friends and neighbors. A release program may also appear on the surface to be a luxury that the rural area cannot afford.

However the bail reform movement is now starting to slowly spread into rural areas. Statewide deposit bail exists in Illinois, Kentucky and Oregon; such legislation is pending in California. New Jersey and Pennsylvania authorize deposit bail by local county option. Oregon has a series of locally-based pretrial release programs throughout the state. Kentucky has a centrally-funded and directed statewide pretrial services agency.

While the characteristics and needs of urban and rural communities may differ, bail reform has proven to be a successful and valuable court service in both milieus. This paper will explore some of the unique features facing the growth of bail reform in rural areas.

The Rural Environment

Although most people have a clear concept of the word "rural," an exact definition is difficult to state. The National Center for State Courts, in Rural Courts: The Effect of Space and Distance on the Administration of Justice, concludes:

> A variety of characteristics. . .distinguish rural areas. . .which significantly affect the operation of courts. Among them are small communities, concomitant personal familiarity, absence of serious crime, lack of social services, frequently lower tax base, and in some rural areas, geographical isolation.[2]

The isolation is being removed by advances in communication and highway development. The National Center noted:

> The technology which earlier altered life in urban areas is not affecting rural America. Agriculture no longer rules the countryside; industry is moving into rural areas and attracting workers away from the farms. Rural-to-urban migration is reversing.[3]

Rural Criminal Justice

The criminal justice system in rural areas is affected by the changing rural environment. Although legal systems vary between jurisdictions, sev-

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eral common features exist. The National Center considered the following as common characteristics:

> Part-time personnel, small, often inadequately trained staffs, shortage of court-related services, lack of specialization of judges, informality of procedures, isolation from professional colleagues, inadequate court facilities, and more personal familiarity among criminal justice personnel and with litigants before the court.[4]

A primary factor associated with these characteristics is a low level of funding throughout the criminal justice system. Low funding levels in rural areas have served to limit the development of alternatives to normal court processes such as the bail reform movement.

In Kentucky inadequate funding is characterized by the fee system of compensation. Under this method, officials receive compensation based on a headcount of people processed. For example, a locally-elected county jailer receives a dieting fee of $6.75 per prisoner per day as well as additional fees for performing such activities as maintaining the county courthouse, attending sessions of court and writing bail bonds when court clerks are unavailable. The jailer must feed and maintain his prisoners, as well as himself and his family, from these fees.

The fee system which until recently was also the method of compensating Kentucky's lower court judges and court clerks directly affected the quality of justice administered in the Commonwealth. Inadequate justice system funding helped inhibit the spread of court system reform, including bail reform, to rural areas.

In 1976, however, Kentucky took a giant step toward bail reform. Its bail reform act outlawed the practice of commercial surety bail. It further required that each trial court provide pretrial services and a statewide pretrial services agency was established.[5]

Implementing Bail Reform

While the outlawing of commercial surety bail is unique to Kentucky, the remainder of the 1976 bail reform act closely parallels the federal bail reform provisions enacted ten years earlier. Trial judges are afforded a broad list of release alternatives ranging from personal recognizance to full cash bail bonds. However personal recognizance and unsecured bail must receive primary consideration and a judge must release a defendant on the least onerous condition necessary to assure the defendant's return to court.

In structuring the pretrial services agency to serve all 120 counties in the state, the Administrative Office of the Courts (which was statutorily directed to administer pretrial services) staffed the agency along the lines of the existing fifty-six judicial circuits. In the urban areas of Covington-Newport, Lexington and Louisville, sufficiently large staffs were provided for continuous, around-the-clock operation. A single officer was found adequate to cover each of the two-, three- and four-county rural circuits.

After studying Kentucky's approach to rural staffing, the Council of State Governments noted:

> With respect to staffing levels and patterns, states with small and highly dispersed populations might well consider a circuit rider approach whereby a single pretrial officer covers several counties. This is done for Kentucky's more rural counties. . .there are practical limits, however, to this circuit rider approach. If there is too wide a geographic area to be covered, ability to respond quickly to defendants can suffer accordingly.[6]

The composition of some existing staff coverage areas has been altered slightly from the circuit boundaries for pretrial purposes, in order to minimize the distance required for travel.

A decentralized structure has helped cause the program to be successful in rural areas. Although being state employees, staff have been recruited locally and local judges are given an equal voice with the central office in the hiring decision. Because the officers must serve local courts, the agency has been decentralized to provide maximum flexibility and responsiveness to local needs. Advisory boards composed of local justice officials and interested laymen exist in each county to assure a local direction in the delivery of pretrial services.

The balance between local flexibility and statewide uniformity is maintained by various means. Agency forms, eligibility criteria (point scale) and standard policies are applicable to every program. However the procedures whereby pretrial services are delivered vary among jurisdictions. Urban program staff are active in the jails on a 24-hour basis. In rural areas, however, jail checking procedures vary. Police officers in several areas telephone the pretrial officer to advise him that they are about to incarcerate a given defendant. This gives the pretrial officer ample notice to drive to the county where the arrest has occurred. In some areas, jailers will phone each morning to convey their previous night's activity while in others the pretrial officer must periodically check each jail personally.

While the methods of service delivery vary between jurisdictions, the statewide statutory nature of the agency requires consistency. Services are similar between urban and rural programs. Both offer bail setting information through investigation. Both will supervise compliance with release conditions. Both routinely notify their clients of appearance requirements. A few rural officers, at the direction of their trial judges, also notify non-clients of their appearance requirements.

The agency central staff helps facilitate cooperation and coordination among the individual rural programs. Through the practice of field audits, the central staff maintains the integrity of statistical reporting and overall program quality. On-site training is conducted by the central staff which helps assure consistency among local programs. Newsletters maintain communication as do a series of quarterly regional meetings which are held to discuss problems common among various programs.

Many rural officers make arrangements among themselves to coordinate services. Some have banded together to work out rotating weekend coverage schedules for three or four circuits. Others have established cross-jurisdictional detoxification, mental health and other community service referrals.

The Value of Rural Pretrial Services

The positioning of pretrial service officers across the Commonwealth has provided two distinct benefits for rural trial judges. The provision of objective information for bail setting purposes helps assure equal treatment for defendants with regard to pretrial release. Important as well is the fact that the rural pretrial officer constitutes a professional staff person available to assist the trial judge in the operation of his court. Quite often this may be the only person on whom the rural trial judge may rely to assure that the court's wishes have met with compliance.

Productivity

It is difficult to compare the statistical productivity of rural and urban pretrial programs. In Kentucky as in most places, urban programs are staffed on a 24-hour, seven-day-a-week basis to provide constant coverage. In rural areas a single person must travel throughout several counties. The rural officer cannot provide the same level of service as his urban counterpart. Summary statistical data are provided, however, for the 1978 fiscal year and the first ten months of the 1979 fiscal year (i.e., July 1, 1978 - April 30, 1979).

During the year ending June 30, 1978, 114,824 persons were arrested in 108 of 120 counties in Kentucky that can easily be considered rural.[7] This figure represents fifty-eight percent of the 197,518 custodial arrests reported throughout the Commonwealth. For the 1979 fiscal year through April 1979, the percentage of all persons arrested in Kentucky remained at fifty-eight percent in the rural areas.

Rural officers contacted and offered services to fifty-two percent and fifty-eight percent of these defendants respectively. Most of the remainder posted bail prior to the arrival of the rural officer. The majority of those contacted were subsequently interviewed and most of those (fifty-six percent and fifty-eight percent) were subsequently released on recognizance. A breakdown of agency productivity is presented in Table 1 (on the following page). A summary of release methods is presented in Table 2 (on the following page).

The difference in numbers between those arrested, contacted and interviewed is attributable to several reasons. Pretrial release officers in Kentucky function to obtain bail setting information for the court. Advocacy stances are not taken and a defendant has the statutory right to refuse the pretrial release interview. Refusals are common in those instances where a defendant does not wish adverse information brought to the attention of the judge.

Additionally, intoxicated persons are routinely afforded a four- to six-hour sobering period prior to being approached by pretrial officers. This period has often not yet expired when the officer makes his morning check of the jail. A uniform bail schedule exists as well, which facilitates the prompt release of most persons arrested on routine traffic violations.

Despite environmental differences, rural trial judges have proven as amenable to recognizing defendants as their urban counterparts. Table 1

TABLE 1

Pretrial Release Program Productivity[8]

	Rural (108 Counties)		Urban (12 Counties)	
	FY 78	FY 79*	FY 78	FY79*
Custodial Arrests	114,824 (58%)	99,353 (58%)	82,694 (42%)	73,275 (42%)
Defendants Contacted	60,147 (52%)	57,411 (58%)	72,677 (88%)	67,573 (92%)
Defendants Interviewed	33,574 (56%)	38,371 (67%)	45,770 (63%)	48,362 (72%)
Clients Released	18,851 (56%)	22,165 (58%)	25,561 (56%)	25,478 (53%)
Failure to Appear	265 (1.4%)	403 (1.8%)	1,517 (5.9%)	1,819 (7.1%)
Rearrests	734 (3.9%)	955 (4.3%)	1,226 (4.8%)	1,514 (5.9%)

*FY 79 Figures July, 1978 - April, 1979.

TABLE 2

Methods of Pretrial Release (FY 1979)[9]

	Rural (108 Counties)	Urban (12 Counties)
Recognizance and Unsecured Bail	33,372	28,143
Third Party Custody	10,975	2,102
Ten Percent Deposit Bond	15,895	6,792
Cash Bail Bond	17,856	11,649
Paid Fine at Court	13,945	4,375

indicates that during FY 1978, rural judges recognized fifty-six percent of those defendants on whom information was collected by the pretrial officer. Urban trial judges also recognized fifty-six percent. During FY 1979, rural judges have recognized a greater percentage of defendants on whom information was provided; fifty-eight percent to fifty-three percent for their urban counterparts.

Further, information compiled during FY 1979 indicates that in both urban and rural jurisdictions of Kentucky a defendant is more likely to be recognized than required to post a cash or deposit bail bond. Most of the defendants released prior to trial were recognized after the trial judge was presented an agency pretrial report. This report is most often communicated to the judge over the telephone.[10]

The data presented above suggest that pretrial release programs, even when staffed by a single person covering several counties, can be effective in rural areas. Indeed, several rural programs in Kentucky during FY 1978 and 1979 provided information which helped cause the release of over one thousand defendants each which exceeds the performance of many of the nation's felony oriented urban programs.[11] The single officer configuration, even when mileage reimbursement is considered, suggests that these services can be provided economically.[12]

Professional Staff

Kentucky's rural pretrial officers routinely go beyond the function of providing bail setting information to their trial judges; a definite need exists in most of these counties for full-time assistance in other court matters.

At the direction of their trial judges, rural pretrial officers perform many administrative tasks. They assist their judges in coordinating mental health services and, in some fortunate areas, steer habitual intoxicants to available detoxification programs. Some officers supervise prisoners placed on work release and most all provide their judges with daily jail census reports. Many officers assist their courts with public defender appointments and act as liaison people to other local justice agencies.

For example, an order entered by the District Court of Calloway and Marshall Counties in July 1978, assigned thirteen additional duties to the pretrial officer. These duties were:

1. He shall provide the district court with a daily jail census;
2. He shall research any backlog of cases that may occur and bring to the attention of the court any cases that have been in the system an exceeding amount of time;
3. He shall assist the court in educating the public on the judicial system;
4. He shall serve as a liaison between the district and the Administrative Office of the Courts with regard to supplies, services and logistics;

5. He shall assist the court in investigating a work release program and in providing supervision for that program;

6. He shall assist the court in providing adequate facilities as are necessary;

7. He shall further serve as liaison between the court and agencies such as comprehensive care, substance abuse and probation and parole;

8. He shall keep the court advised regarding the service of warrants, summons and show cause actions;

9. He shall arrange training sessions and continuing education for court personnel;

10. He shall, when requested, mediate small claims and family disputes prior to hearing before the court;

11. He shall assist the court and the clerk when requested with jury matters and assuring that there is proper coordination between attorneys, the court and the clerk with respect to trials;

12. He shall maintain liaison with the Administrative Office of the Courts and assure that the court is provided with the proper forms, equipment and supplies for its functioning;

13. The court administrator shall perform such other duties as are commensurate with the office as shall from time to time be requested by the court.

Further, information supplied through the pretrial interview process assists trial judges in misdemeanant sentencing.[13] Misdemeanant probation services in rural counties are not common which results in many cases being disposed by fine or suspended sentence.

Conclusions

Pretrial services have been slowly expanding into rural areas. By performing broader based tasks than their urban counterparts, rural officers provide substantial services to their courts and communities economically. While this paper has concentrated on the Kentucky experience with rural pretrial services, programs in Oregon have also demonstrated economical and positive results in providing rural services.

Discussing locally-provided pretrial services in that state, Jerry Hoffman, corrections specialist with the Oregon Law Enforcement Council, stated:

> In most cases these local professionals are running comprehensive corrections services programs, which provide pretrial release interviews, pre-sentence investigations, post-trial probation and parole supervision services to courts in their county or region.[14]

When structured to respond to the specific needs of the rural area, pretrial services agencies can prosper and offer a wide range of economical and beneficial services to their communities.

NOTES

[1] Wayne Thomas, Jr., Bail Reform in America (Berkeley: University of California, 1976), p. 262.

[2] National Center for State Courts, Rural Courts, p. xv.

[3] Ibid.

[4] Ibid., p. 4.

[5] See KRS 431.500-550; RCr Section 4.

[6] Council of State Governments, Bail Bond Reform in Kentucky and Oregon (Lexington, Kentucky: 1978), p. 21.

[7] For purposes of this paper, 108 of 120 counties composing forty-six of fifty-six judicial circuits are considered rural. There are twelve single-county rural circuits, thirteen two-county, fourteen three-county and seven with four counties. Circuits containing the following population centers are considered nonrural, 1970 county populations are in parentheses: Bowling Green (57,432), Covington (129,440), Elizabethtown (78,421), Frankfort (34,481), Lexington (174,323), Louisville (695,055), Newport (88,501), Owensboro (79,486), Paducah (58,281), Richmond and Winchester (66,820).

[8] Data submitted by pretrial services officers.

[9] Data submitted by pretrial services officers.

[10] The conveyance of information over the telephone is not common to pretrial release programs everywhere. In Kentucky, it is based on a statutory clause which states, "A court authorizing the release of a person. . . shall cause the issuance of an appropriate order" of release [KRS 431.520 (5)]. The language, "shall cause the issuance," was specifically designed for telephonic communication of the order to alleviate delays caused by distance (OAG 77-310).

[11] Many urban programs are oriented to process only felons (e.g., Akron, Ohio) or intervene after the arraignment process (e.g., Baltimore Co., Md.), or to initially assist persons in making bail (Pittsburgh, Pa.). It takes many newly funded or initiated programs several years to attain credibility and reach this release volume. Circuits 13, 24, 33, 34 and 54 recorded over 1,000 releases during fiscal year 1978. Circuits 3, 13, 21, 24, 27, 33, 34, 53 and 54 recorded over 1,000 interviews during this period.

[12] Two, three or four counties may economically share the cost of a pretrial officer. The cost of the average rural pretrial position in Kentucky is less than $20,000 per year.

[13] Felony cases are statutorily required to have pre-sentence investigations prepared by probation and parole officers.

[14] Letter of October 8, 1976.

Editors' Note

A fundamental tenet of the pretrial services concept is diversion from the criminal process. This concept evolved from the recognition that too often people suffering from alcoholism, mental illness or other problems are channeled through the criminal justice process. Because the system is not equipped to deal directly with these problems, more emphasis has been given in recent years to diverting such people to the appropriate treatment programs.

Some idea of the potential effectiveness and drawbacks of diversion programs in rural areas was provided by Brakel, S.J., in Diversion From the Criminal Process in the Rural Community--Final Report of the American Bar Foundation Project on Rural Criminal Justice, American Bar Foundation, 115 East 60th Street, Chicago, Illinois 60637 (1969). Interestingly, Brakel's study revealed a reluctance by personnel in rural mental health facilities and treatment centers to assist persons diverted from the criminal process except on a voluntary basis.

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PART II

Section III. JAILS AND CORRECTIONS

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Introduction to Section III

During the past few years, there have been repeated claims that America's correctional system has deteriorated to a level constituting a national crisis. This crisis is typified by overcrowded and unsafe facilities whose conditions too frequently fail to meet minimum health standards, too many persons inappropriately confined whose problems could be better dealt with elsewhere (e.g., juveniles and alcoholics), and inmate services and programs that don't seem to accomplish anything.

Despite our general acknowledgment of this state of things, success in resolving these problems has been most difficult to achieve for many reasons. Improvement and reform require changing local attitudes, a particularly tough task in connection with criminal justice issues. Additionally, improving jail operations and services usually requires an increased local financial commitment. This is a particularly troublesome obstacle because the community usually assigns a lower priority to justice issues than others such as health or education. It has become even more difficult to overcome as pressures for greater local financial austerity have increased.

Perhaps an equally significant obstacle to stimulating jail reform and improvement, particularly in rural areas, is the lack of information and data depicting these problems in human terms as well as in quantitative or statistical terms. The presentations that follow in this section might represent an important beginning in the development of that kind of information. At the very least, they will provide the reader with a good look at today's rural jails which constitute about eighty percent of all jails nationally.

In "The Rural Jail: Its People, Problems, and Solutions," Ken Kerle gives us a first-hand look at the variety of rural jails found in our country. Kerle has personally visited rural jails in nearly all of the forty-eight contiguous United States, a distinction uniquely qualifying him to depict their status. He presently writes a column in the Keeper's Voice, the American Association of Correctional Officers' newsletter, entitled "On the Road with Ken Kerle" which provides him a forum to reveal and discuss the implications of his findings and experiences based on his visits to over 316 jails across the country.

An interesting contrast to the more anecdotal treatment of rural jails provided by Kerle is Rod Miller's "A Needs Assessment for Small Jails in the United States." Miller's Community Resource Services, Inc. prepared this assessment as the first phase of a bold new national small jail reform project launched by the National Institute of Corrections' Jail Center in Boulder, Colorado. That national project is detailed in the presentation of Paul Katsampes, the project supervisor, which follows Miller's paper.

Miller's assessment points out some intriguing findings which not only have important implications for the success of the national project, but also should be food for thought to any reader genuinely interested in the problems facing rural jails today. For example, Miller notes the tendency of jail managers to attribute most problems to facilities and operations while jail inspectors assign the causes of the same problems to administrators and staff. As Miller suggests, definitive answers to the questions raised by the assessment may

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not be as important as the fact that they have been raised at all by a long overdue statistical assessment of the problems and needs of our small rural jails.

The last two papers of this section illustrate how the challenge of improving our rural jails can be met. Certainly, these are not the only rural jail success stories, but they illustrate two important points. The Marengo County Jail program detailed by Michael Haley is an example of the kind of change and improvement which often can be achieved by capitalizing on factors which inhere in the rural environment--creativity, access to the community and its infrastructure, and the pivotal role of the individual county sheriff. "Group Psychotherapy in a Regional Corrections Setting" by Dan Lawrence and Joyce Piispanen testifies to the fact that rural jail programs do not have to be second-rate nor offer anything less than the full range of services vital to achieving improvement and reform.

CHAPTER XI

THE RURAL JAIL: ITS PEOPLE, PROBLEMS AND SOLUTIONS

by Ken Kerle

The Jail Crisis

Most people in this country are not interested in jails so it should not be surprising that they are unaware there is a national jail crisis at this time. In 1977 and again in 1978, the National Association of County Officials held two national assemblies in Kansas City, Missouri and Minneapolis, Minnesota on the jail crisis but events such as these have been too few and too low in profile to attract significant public attention which further obscures a clear view and understanding of the jail crisis in its many dimensions. Jail reform advocates speak of inmates' constitutional rights, structural inadequacies of the jail itself, lousy meals, poor or nonexistent medical care, insufficient number of jail personnel, overcrowding, a lack of written policy procedures, no training for jail staff, etc.

Failure to recognize the breadth of our jail problem will certainly continue to see us focus on short-range solutions such as simply spending money to eliminate the fire hazards and low levels of sanitation; to improve health care, education, counseling and diet; and to insist on a better trained, better qualified staff. What we must realize is our jail crisis can only be eradicated with long-run solutions and they will depend on how the community itself thinks about its jail, its use and who should be confined within its walls. I suspect before the community can be expected to answer these questions, there has to be a consensus among those in the criminal justice field, i.e., corrections, courts, sheriffs, police, probation and parole, and prosecuting attorneys as to jail management and programming. We have seen that to the extent this does not occur, the slack is taken up by court decisions which impose minimum standards of decency and by state jail inspection staff which can compel compliance with state standards. The problem, some 200 years in the making,[1] will be, in my opinion, with us for some time to come unless constructive action is taken.

A 1978 survey concludes that the number of jails in the U.S. today is approximately 3,493, housing 158,394 persons. If one includes the total committed and released annually (persons bonded out or released on their own recognizance, etc.), the number exceeds one-and-a-half million every year.[2] The status of an incarcerated person varies: forty-two percent, according to the 1978 survey, have not yet had their trial and, under our Constitution, retain the presumption of innocence until proven guilty. Some have been sentenced by a court of law to serve a sentence in the local institution. Others who have committed more serious crimes and who have been found guilty await transfer to a state institution and remain in the local jail to serve their sentence because of serious overcrowding in the state prison system.

The most typical composite of a jail inmate would be a poor young man living in the local community accused of committing minor offenses. According to the National Jail and Adult Detention Directory, blacks, who represent

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twelve percent of the nation's general population, comprise forty-two percent of the jail population. Other statistics of jail inmates are revealed in Table 1.

TABLE 1

The Jail Inmate (U.S.A.)[3]	Percent
Adult male	90
Adult female	5
Juvenile	5
Under 30 years of age	60
Between ages 21 and 24	25
Earning less than $1,999 a year	50
Graduated from high school	25
Married	25
Serving a sentence	42

Local jail responsibility in the United States is primarily the duty of the sheriff. In forty-five states statutory authorization for the sheriff to serve as jailer exists and approximately eighty-six percent of the sheriffs' departments in these states operate at least one jail.[4] Kentucky is the only state where the state constitution specifies the jailer must be an elected official as well as a peace officer and an officer of the circuit and county courts for the county. If the county jailer is legally committed to jail, then the sheriff performs the duties of jailer.[5] In Pennsylvania, a sheriff runs the jails in the thirty-six small, rural counties of the 6th, 7th, and 8th class. In New Jersey sheriffs operate only thirteen of the twenty-one county jails; the county freeholders have control in the remaining counties and appoint their own jail directors. Vermont is one of the five states where the State Department of Corrections operates the local jails. Though overcrowded, this rural state does an exemplary job of running these institutions.

Thirty-two of our fifty states operate state jail inspection programs which, in theory, would compel the local jurisdictions to meet state specified standards. Twenty-two states require yearly inspections, three inspect every six months, five examine the jails on a quarterly basis and two states inspect every two years. The Jail Inspection Program Directory reports that twenty-nine states are acknowledged to have enforcement powers when it comes to jail standards.[6]

The Rural County in the U.S.

The United States Bureau of the Census distinguishes between urban, suburban and rural counties. A suburban county is one which in part or in whole has a city of 50,000 or more inhabitants and borders on a county or counties which have metropolitan characteristics. A rural county is one that is not part of a Standard Metropolitan Statistical Area (50,000 or more people) and does not have a core city with over 50,000.[7] The County and City Data Book of the U.S. Bureau of the Census illustrates, in Table 2 below, the number of rural counties for 1970 and 1975.[8]

There are 3,143 counties in the United States and over seventy-five percent of the counties are rural by Census data definition. Census data in the 1978 World Almanac also revealed that 53,887,000 of the 203 million-plus inhabitants of the U.S. in 1970 lived in rural areas; nearly 5,000,000 of the rural inhabitants were nonwhite.[9] The majority of jails in this country are small, as shown in Table 3 on the following page.

Jail Standards--How Some Measure Up

Three years ago the Comptroller General of the U.S. reported to Congress that the persistent problems of jails in the country hinged on inadequate physical conditions and a lack of services. Jails, he emphasized, were a low priority at all levels of government and it was up to the Law Enforcement Assistance Administration to assert the leadership needed to improve

TABLE 2

	Rural Counties	
Population	1970	1975
Under 1,000	26	26
1,000-4,999	299	278
5,000-9,999	554	516
10,000-49,999	1,585	1,600
Total	2,464	2,420

	Urban Counties	
Population	1970	1975
50,000-99,999	332	341
100,000 or more	347	382
Total	679	723

TABLE 3

Jails in the U.S.A.[10]	Percent
Fewer than 20 inmates	75
Between 21 and 250 inmates	22
Over 250 inmates	4

Staff Size of Jails in the U.S.A.	Percent
Fewer than 20	71
21 to 50	22
51 to 100	7
101 to 400	7
Over 400	less than 1

local jails. Established standards should play a large role in bringing this about, he noted.[11] Today a large number of national associations have developed jail standards which has created debates over whose standards should prevail. Among the organizations which developed sets of standards are the American Correctional Association, the American Bar Association, the National Sheriffs' Association, the U.S. Department of Justice and organizations such as the American Medical Association (jail health standards) and the American Public Health Association.[12] This is in addition to the thirty-two states which have developed their own state standards.

I have visited with state jail inspection staff personnel in practically all of the thirty-two states which have inspection programs and I have been inundated with written reports and documents on the conditions of the jails in these states. Time does not permit a summary of this voluminous amount of material. Rather, I will focus on a sample of the states which recently responded to my survey about the rural jail.

Four states which have jail inspections have no authority to enforce their standards and, in effect, are advisory only. Only eight states have given the jail staff its own enforcement powers. The remainder must petition the courts for closing the facilities down or, in the case of Oregon, petition the Attorney General. Georgia and Tennessee lack specific enforcement provisions or alternatives.[13]

Even where the jail inspectors have authority, it doesn't always mean compliance. I visited a shabby, fire-trap rural jail in Ohio County, Indiana which the jail inspector tried to close. The local judge and county commissioners decided it should remain open. Weeks may elapse before anybody is

TABLE 4

Rural County Jails and Deficiencies by States

Number of rural county jails	State	Comments
55	AL	Few rural jails able to provide 24 hr. constant supervision; jails which do not have female officers (50 percent) use female clerks, secretaries, etc. in handling female prisoners.
67	AK	40 failed state inspection; at present time, state requires only 70 percent compliance with state standards.
22	CA	Five in serious noncompliance with Calif. standards; 10 in minor noncompliance.
43	FL	70 percent not in compliance; i.e., lack of floor space, cell size, litter, dress of inmates; 60 percent do not have staff to provide 24 hr. coverage in men's area; five under court order, law suit or consent decree.
143	GA	46 percent failed to comply. Because of structural inadequacies they would require extensive renovations. Five jails involved in court action or have been threatened with court action.
71	IL	71 jails with 1,290 noncompliances in areas of administration, operations and buildings.
70	IN	15 percent not in compliance with state standards. Four jails under court order; 85 percent hold status offenders segregated by walls or floors; 36 jails should be replaced.
85	IA	Seven jails closed; four rated unacceptable; 23 rated poor; one jail under court order.
85	KS	16 county jails meet Kansas standards; the remainder have from one to 17 deficiencies; 14 county jails no longer in use.

TABLE 4 (Continued)

Rural County Jails and Deficiencies by States

Number of rural county jails	State	Comments
45 parish jails	LA	All jails, rural or otherwise, are from time to time in violation of certain regulations of the sanitary code. One rural jail under court order not to use section of the jail until cells are completely remodeled.
9	ME	Three percent do not comply in all instances with state and national standards.
106	MO	No jail inspection; 80 percent of Missouri jails cannot meet national minimum guidelines.
77	MS	No jail inspection; employees frequently worked 60 hour weeks; 50 local jails should be eliminated!
71	MN	62 did not meet minimum compliance ratings of the state; study of Governor's Commission on Crime Prevention showed most facilities in poor physical condition; separation of inmate groups not adequate; jails understaffed.
5	NH	No state jail inspection.
17	NY	All 17 deficient in staff; eight need new construction; seven need alteration or additions; all counties under court order to develop plans to provide contact visits.
43	ND	27 jails detained status offenders. After July 1, 1979 Attorney General will have authority to prescribe standards.
66	NC	17 jails not complying with minimum standards. Eight counties need new jails or major renovations; one jail under court order or consent decree.
54	OH	Only 2 rural jails at this time can meet jail certification to begin in summer of 1979.

TABLE 4 (Continued)

Rural County Jails and Deficiencies by States

Number of rural county jails	State	Comments
70	OK	10 long-term jails not in full compliance with first increment of jail standards; 10 restricted to male inmates only.
29	OR	Five county jails under court order.
87	TN	45 percent of jails noncertified; 78 percent of personnel have no training. 72 percent of the jails have no written policies; 69 percent did not provide prisoners with basic essentials for personal hygiene; 65 percent still using polyurethane core mattresses.
31	SC	50 percent do not have full-time female officer coverage; no work or study release programs.
65	SD	No state jail inspection; 24.3 percent unable to provide 24 hr. supervision of detainees because of staffing shortage.
48	WS	19 under restriction by jail inspection staff; one jail closed and a new jail is planned.

locked up here. The visible everyday risk and danger of fire is faced by the sheriff and his family who reside in the living quarters located over the jail. In Wisconsin the inspection staff found they were stymied in their attempt to close a jail several years ago when the county commissioners made a few phone calls to Madison to solicit the support of the Governor to keep it open a bit longer.

Probably the most ancient and hideous looking jail I've inspected is the Bedford County Jail in Shelbyville, Tennessee. It resembled a medieval fortress. A stone prominently placed at the top of the jail arch read 1843! Dungeon-like cells with slits for windows held thirty-five males the day I toured the establishment. The place has been condemned several times by the Tennessee State Jail Inspection staff but the local government refused to do anything about it. None of the sheriff's staff had ever received any police or corrections training. The sheriff told me the county claimed they couldn't afford it. Yet this is a county which can afford to spend money on a new high school.

In Palo Pinto County, Texas, I had an opportunity to tour a brand new jail. The sheriff indicated he would have a real battle getting sufficient personnel to adequately staff the new jail and he serves a county with oil in the ground and a surplus in the bank.

Insufficient staff, low pay and a lack of training are common problems. Many sheriffs still pay the jail staff less than the patrol staff. All states I visited now have minimum standards to be met if one is to perform police work. Jails are another story. At a Texas jail, the night jailer was a retired postman; in a Pennsylvania institution, a hard-core unemployed new recruit aided and abetted an escape; in Alabama, jail training is optional.

Even if training is offered, the sheriff is often so short of staff he can't send anyone. A number of states have made progress by offering training for new jailers--even though it is often no more than a 40-hour course. I have not found jail training in any of the states to be equivalent in length to police training which ranges from six to fifteen weeks. This tells us a great deal about how correctional staff are perceived by public officials. Generally, the jail job is viewed as a dead-end job taking care of dead-end people. One sheriff told me his jail staff were ashamed to be seen in their uniforms; they preferred to change clothes upon arrival at work.

The Jail Inmate--Medical Care

A short historical perspective indicates that in the 1960s the courts began to speak of evolving standards of decency and to decry and denounce the inhumane conditions existing in most of the penal institutions in the U.S. Administrative practices came under judicial scrutiny; structural defects of institutions were exposed in open court litigation. In a few years this litigation grew into a veritable flood of lawsuits that washed down into the local jails, much to the dismay of local officials. Minimal medical care emerged as a big issue. Myron P. Nidetz, Associate Director of the American Medical Association Program to Improve Health Care in Jails, described a 1972 survey.[14]

> One-third of the jails in the U.S. had no services provided by a physician. Two-thirds of the jails had only first aid. Less than 40 percent had a regular nonemergency medical service. On a lack of proper medical facilities alone--14 states and 189 jails were involved in lawsuits or court orders.

As a result of its initial work in six pilot states, the Advisory Committee to Improve Medical Care and Health Services in Correctional Institutions developed a set of comprehensive standards, model programs and a national accreditation program. This is definite progress but there is still a long distance to travel to obtain decent medical care in rural jails. In the past year I have visited over 200 jails in thirty-nine states. The situation remains that a doctor is simply not available in many rural communities. The jail inspection staff in Lincoln, Nebraska told me of a Nebraska county where the closest doctor was 150 miles away. Even in counties where there are doctors, it doesn't mean they make calls at jails. This compels the sheriff or jail administrator to transport the sick prisoner to the hospital or to the doctor's office. It's not only an inconvenience to the jail administrator but enhances the risk of escape. Medical care is substandard in jails because county officials haven't budgeted for it. Most jails in rural areas do not shower incoming prisoners or give physical examinations.

Dental assistance in jails is in even worse shape. In most of the rural counties I toured (and in a good many urban counties also) only extractions are permitted. If there is a need for fillings or cosmetic dentistry, it must be paid for by the inmate who often not only has rotten teeth, but is indigent as well.

Jails--Repository for People Who Don't Belong There

From their beginnings jails have been the dumping grounds for people who don't belong there. People such as the mentally ill, the mentally retarded, the chronic alcoholic, the drug addict, the status offender and, in most cases, the juvenile offender need to be dealt with by the community elsewhere. According to an estimate by the Institute for Contemporary Corrections and Behavioral Sciences, ten percent of those in Texas jails are mentally retarded.[15] The question which counties have to answer, though, is where these different categories of inmates are to be placed if not in the jail? Obviously, the answer is that other county agencies and government organizations have to assume some of the responsibility.

The Drunk

Many states have enacted laws decriminalizing public intoxication.[16] Too often, though, the intended result of this action is circumvented by law enforcement personnel who simply slap disorderly conduct charges on drunks. Experience shows reform can be accomplished. The Law Enforcement Assistance Administration and the National Clearinghouse of Criminal Justice and Architecture oppose any kind of new jail construction where drunk tanks are part of the jail. Still the drunk tank prevails. I visited one jail in a small Illinois county where an inebriated inmate choked to death on his own vomit when his head slipped off the ledge in the drunk tank. In Washington County, Maryland where I served as a consultant to the sheriff's department for nearly four years, the sheriff persuaded the county health department to apply for a grant to establish a detoxification center. Part of the money was used to remodel the sheriff's living quarters in the jail building as the detox unit and office space for the staff. A director, nurse and counseling staff opened the unit for business. The grant funded through the Maryland Department of Mental Health and Hygiene runs for three years and the program is open to anyone in the county. Another solution receiving attention is a regional approach, if one can get it approved. South Carolina is like many states that have a law against locking up public drunks but has no money to implement an alternative program. In Sumter County, South Carolina, the jail administrator told me plans for a tri-county detoxification center failed. How hard it is to cooperate with our neighbors!

The Mentally Disturbed

One of the most shocking facts about jails is the number of mentally ill they confine. Going through my old clippings, I found a New York Times article dated 1974 which noted suicides in jails were sixty percent above the national average. In my own tour one of the questions I asked was "When was your last suicide?" Between eighty and ninety percent of all the jails had suicides in the past three or four years. If we talk about attempted suicides, the figure jumps to between ninety-five and ninety-nine percent. Some prisoners are in earnest and some attempt suicide as an attention-getting mechanism. Why are jails centers for self-destruction? I think there are several reasons:

- Mentally ill people get dumped into jails because alternative programs do not exist or because mental institutions are overcrowded and can't handle them.
- Today court decisions will not allow a person to be committed unless it can be shown he is a threat to himself or to others. The alternative is to charge him with disorderly conduct and lock him in jail.
- Most jail staff receive no training in recognizing and dealing with the problems of the mentally ill. Most jail training--where it exists--is still too heavily skewed in the direction of custody and not enough in the direction of dealing with people who have serious problems.
- County governments may refuse to spend the money to properly staff the jail. Most jails are, in fact, understaffed!

In a Massachusetts institution a woman was chained to the bars for three days until they finally calmed her down with tranquilizers. She shouldn't have been there but the jail staff encountered tremendous difficulty in getting her into a mental institution. I observed a female prisoner in a Florida jail who had been mute for six weeks and who was just vegetating. At an Iowa institution, the jail administrator described a situation where one inmate watched another inmate hang himself in the shower room; the inmate later commented "I figured he knew what he wanted to do." A few of the larger jails have developed programs where staff and inmates are given training in suicide prevention but I have yet to find this in a rural county.

In Galveston, Texas, the Galveston County Sheriff's Department and the Gulf Coast Regional Mental Health/Mental Retardation Center have cooperated to create the mental health deputy program. In the written introduction to their program, the authors begin:

> Society's problems often end up in jail. People who display disruptive or dangerous behavior, however, may need psychiatric treatment rather than incarcerations and experience shows intervention is more effective if it occurs before the individual has become enmeshed in the criminal justice system.[17]

At the moment I understand Galveston County and Alameda County, California, are the only two places where the training is taking place. I wish to emphasize that correctional staff in the jails need this kind of training just as much as the officer on the road. Rural counties have the expertise to provide it but with a handful of exceptions, it just isn't being done. One exception I found at the rural level was in Greene County, Alabama, where the sheriff persuaded the local mental health staff to come by on an on-call basis and work with his mentally ill prisoners. Additionally, in Belknap County, New Hampshire (Laconia, N.H.), a psychologist sees every inmate brought into the jail. In Barry County, Michigan, the jail administrator functions as the recreation director. Both the jail administrator and sheriff have recognized the need for physical exercise as a preventative to mental problems.

One study on jails and drug treatment examined 118 jails and found eighty-three percent of the jail services provided to inmates came from nonjail agencies.[18] For the small jail, a system was recommended where the jail administrator interacts with outside agencies to provide inmate services. An important point made in this study is that jails do not traditionally have contact with the information network as do other community service agencies. It recommended management-level jail personnel should participate in community human service coordinating councils to communicate the jail service needs. I could not agree more.

In Washington County, Maryland, the sheriff designated me the department representative to such a council which had been organized by the county health department. Through meeting with people representing other county agencies, the sheriff's department was able to cooperate with others in sponsoring a seminar on rape crisis. Ultimately a consultant to the health department and I wrote a manual on treatment for victims of sexual assault. From my experience, I suspect directors of health agencies at the local level must be motivated to assist. Occasionally a health department will make the first move. A jail administrator in Indiana told me the local mental health people came to his jail and said, "Tell us what you want us to do and we'll do it!" This is the exception to the rule. Most health administrators have their own problems and won't come forward to volunteer. It is the responsibility of the sheriff or jail administrator to establish contact with the outside agencies and to keep after them until they begin to provide services to the local jail.

Juveniles in Jail

Three states, Maryland, New Jersey and Massachusetts, hold no juveniles in their local jails. The rest of the states still do and some hold status offenders--the runaway, the incorrigible and the truant. Jail seems to be the preferred solution where there are no alternatives. In 1978, twenty-seven of the forty-three rural county jails in North Dakota detained status offenders.

To some extent, turning this situation around is entirely dependent on the attitudes and perceptions of law enforcement and jail personnel. For example, in one Texas county a sheriff allowed the single juvenile in his jail to ride with him on patrol rather than keep him confined in a jail cell. Foster homes are certainly options if the family situation of the juvenile in question is untenable and if they are available. An outstanding example of a fine home for juveniles is to be found in Upshur County, West Virginia; Dr. John Warner, a contributor to this publication, and his students organized and established the home.

Injustice to Jail Staff

I have mentioned in this paper how jail staff are frequently treated--low pay, long hours, few fringe benefits. In fact, in all of the departments I visited I found only two where the sheriff pays the jail staff a higher salary than the patrol deputies. In one Oklahoma county I was told that up until two years ago, the jail officer was expected to work twenty-four hours on and twenty-four hours off! A North Carolina jailer told me to ". . .remember to tell them how rotten the pay is here!" Low pay is generally the complaint of those who work in rural jails.

Jail clientele are under considerable stress and this in turn places the jail staff under stress. At times a jailer must endure people screaming and banging objects in their cells, fight off physical assaults both at the booking desk and in the cell block, take verbal abuse from the prisoners for irrational reasons, clean up the vomit from the drunk tanks, observe the results of successful suicides and watch the demented individual drinking from his toilet bowl. This is compounded by the fact that the correctional person frequently rotates shifts. One month, week or whatever, he works the day, the swing or the midnight shift and the next period a different shift. It's the nature of the job. The officer in the jail rubs elbows with everybody booked--the alleged rapist, murderer, child molester, burglar, shoplifter, check forger, car thief, purse snatcher, bank robber, drunk and occasionally even a white collar criminal. These are his companions during the eight-hour shift.

It long has been recognized police work is conducive to a great deal of stress; studies indicate high rates of suicide attempts, heart disease, circulatory and digestive problems, drug addiction and alcoholism, etc. Though not as much research has been done, people are beginning to find stress among correctional officers just as high, if not higher, than among police. One excellent study conducted among county and state correctional staff in New Jersey was recently presented at the Annual Meeting of the American Academy of Criminal Justice Sciences.[19] A person undergoing stress isn't the most pleasant to live with; the families of these correctional officers have found this to be true. People under stress need help and it is up to the community to provide it. It often doesn't get provided for the same reason the county government allows the jail staff to continue to suffer low pay, long hours, no training and no job protection. As far as community priorities are concerned, jails are always at the bottom--schools, roads, health, police and fire protection, parks, utilities, etc. come before jails.

Solutions to these problems are difficult to conceive. Lawsuits have forced many counties to build new jails whether the citizenry liked it or not. The deliberate neglect of jail personnel will, I suspect, push local level correctional staff into the direction of unionism in one form or another. A few farsighted sheriffs have placed their departments under civil service protection to eliminate the job patronage feature still so prominent since most sheriffs gain office through the elective process. Gradually, standards enunciated by the state and professional organizations will bring about more and better training and with it a better qualified recruit will be sought.

Solutions

To me the cry of "no money" is a specious argument--it's a matter of priorities about which the local public must be educated. If the people in the county can't operate a constitutional jail, then it would be better to close it.

Today regional jails are touted as one solution--provided multi-county politics can be harmonized to reach such an objective. Another solution, of course, is to place the operation of the local jail under the state Department of Corrections as is now done in five states. The community has the potential resources to meet human needs and we have the capacity to place in the hands of all individuals the knowledge of what those resources are and how to use them.[20]

In closing, I would note the 1978 National Jail Census reports thirty percent of those detained are in the violent offense category; thus it would seem a great many nonviolent people in the pre-trial status might be diverted from the jail into other alternatives to incarceration. Remembering my earlier point about a consensus among those in the criminal justice field, I see the following as necessary to achieve that result:

- Police would need better training in the direction of using options other than arrest, i.e., citations, detox centers, remand to the custody of legal guardians. They should be better oriented to the problem of jails and need training in mental health techniques.

- Judges would need to be better educated to community alternatives for the nonviolent offender and utilize these resources to a much greater extent than is now done, i.e., restitution, foster and group homes, work release centers.

- Probation would need to be beefed up considerably since many of those who ordinarily would be in jail would be on probation and under the supervision of probation officers. This would save money since incarceration is expensive.

- For the sentenced people in the local jail, the sheriff and jail administrator would seek the cooperation of the courts in getting the largest number possible out on work or study release. They would work actively to gain the support of community agencies which can provide the services in areas such as medical, education, libraries, recreation--services which would be available if the persons were not institutionalized. The jail staff needs more training in mental health techniques and counseling.

Transcending each of these points is the key element to any meaningful progress in resolving our jail crisis. All of those with responsibility in criminal justice need to do a better job in teaching the public how each agency of criminal justice impacts on the other agencies and to suggest better ways of handling offenders.

NOTES

[1] Jay Moynahan and Earle K. Steward, "The American Jail: Its Origin and Development," paper presented to the American Society of Criminology, Atlanta, Ga., Nov. 16, 1977.

[2] Census of jail and survey of jail inmates, 1978, National Prisoner Statistics Bulletin, Feb., 1979, LEAA, NCJISS. Another source reports from four to five million people go through our nation's jails each year: Bernard F. Hillenbrand, Executive Director, National Association of Counties, proceedings of the National Assembly on the Jail Crisis, Kansas City, Missouri, May 22-25, 1977, page vii; report written by Michael Carbine, edited by Barbara Rice and Nancy Levinson.

[3] American Correctional Association, The National Jail and Adult Detention Directory (College Park, Maryland: December, 1978), p. 7.

[4] County Law Enforcement--An Assessment of Capabilities and Needs, published with an LEAA grant by the National Sheriff's Association, 1976, p. 41. The states of Alaska, Vermont, Connecticut, Rhode Island, Delaware and Hawaii operate their local jails.

[5] J.E. Baker, Kentucky Jailers Management--Operations Manual (Kentucky Department of Justice, Bureau of Training: 1976), see pp. 1-65.

[6] Directory of State Jail Inspection Programs, published by the National Sheriffs' Association, June, 1978. No programs exist in Arizona, Colorado, Idaho, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, South Dakota, Utah, West Virginia, or Wyoming.

[7] County and City Data Book, Statistical Abstract Supplement to the U.S. Bureau of the Census, 1977 (Washington, D.C.: U.S. Govt. Printing Office, 1978), p. xxvi.

[8] Ibid.

[9] The World Almanac and Book of Facts, 1978. Population Urban and Rural by Race, 1960 and 1979. Source--U.S. Bureau of Census, Newspaper Enterprise Association, Inc., p. 189.

[10] The National Jail and Adult Detention Directory, p. 7.

[11] Dale Sechrest, "Why Separate Standards for Jails," Corrections Today Official Publication of the American Correctional Assoc., (March-April 1979): 18.

[12] Richard S. Allinson, "The Politics of Prison Standards," Corrections Magazine (March 1979): 56-59.

[13] Directory of State Jail Inspection Programs, National Sheriffs' Association, 1250 Connecticut Ave., N.W. Washington, D.C. 20036, June 1978, pp. 6-12.

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[14] Summary of remarks of Mr. Myron Nidetz from the proceedings of the 2nd National Assembly on the Jail Crisis, Minneapolis, Minnesota, May 17-20, 1978, prepared for LEAA by the National Association of Counties Research Foundation, Joan Amico and Roderick O'Conner, Editors, p. 22.

[15] National Assembly on the Jail Crisis, 1977, Kansas City, Missouri, sponsored by the National Association of Counties Research Foundation and Jackson County, Missouri, p. 3. A new coalition for jail reform met for the first time in February 1978 with representatives from over twenty-five national organizations. The major goals were to eliminate inappropriate jail confinement and inappropriate conditions. See Raymond S. Olsen, "National Coalition for Jail Reform: Amassing Resources to Effect Change," Corrections Today, March-April, 1979.

[16] Paul C. Friday, "Issues in the Decriminalization of Public Intoxication," Federal Probation (September 1978): 33-39.

[17] G. Michael Winburn, St. David Henry, and David L. Larson, "Mental Health Deputies' Field Evaluation of High Risk Individuals," paper given at National Conference on Community Mental Health, Feb., 1979, Washington, D.C.

[18] Barbara Price and Charles Newman, Jails and Drug Treatment, Federal Probation 40 (3) (Sept. 1976): 3-16.

[19] Dr. Frances E. Cheek and Marie DiStafano Miller, "The Experience of Stress on Corrections Officers," New Jersey Department of Corrections, Whittlesey Road, Trenton, New Jersey, AACJS meeting, Cincinnati, Ohio, March 15-17, 1979.

[20] Paraphrased from citation from Contact Inc., Lincoln, Nebraska.

CHAPTER XII

A NEEDS ASSESSMENT FOR SMALL JAILS IN THE UNITED STATES

by Rod Miller

This small jail needs assessment has been produced as part of the "Management Development for Small Jails" grant awarded to Community Resource Services, Inc. (CRS) in August, 1979, by the National Institute of Corrections (NIC) which has taken a strong interest in the needs and problems of small jails. NIC has defined small jails as facilities which house less than twenty-five inmates on an average day. The assessment is based on data collected from a statistically significant sample of small jails (eleven percent of all small jails represented), site visits to ninety-one jails in thirty-seven states and surveys of jail inspectors from forty-four states. Response to the needs assessment by jail managers was excellent.

The characteristics of small jails were identified through the surveys and through data provided by the U.S. Bureau of Census. There are more than 2,000 "small" jails in the United States located in forty-seven states. Fifty-one percent of all small jails serve communities (or regions) with populations of 20,000 or less. Small jails have limited training available to staff and staff are rarely available for increased training. Many facilities reportedly are understaffed. Jail managers are aware of standards and current case law. Most facilities have some written policies and procedures but in many instances these are not adequate.

Many negative aspects of small jails were identified during the needs assessment; conversely, small jails offer some unique resources and settings. The challenge to the small jails project is to assist in the solution of problems while attempting to maintain the positive features of small jails.

Jail managers, jail inspectors and CRS staff identified many problems in small jails. Managers and inspectors generally agreed on the areas which pose the most difficulty with standards compliance (facilities, operations, inmate services/activities/programs, and administration). Managers and inspectors disagreed on the general problems facing small jails. Managers tended to attribute problems to facilities and operations; inspectors cited administration and staff as key problems.

Jail managers displayed an overwhelming interest in specific topics and in resource materials for those topics. Managers displayed the most interest in standards and compliance, legal issues, safety and security, inspecting their own jails, policies and procedures, records, budgets, training, emer-

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gencies and inmate services. Substantial interest was also reported for model policies and procedures, and a workbook to assist with developing or revising policies and procedures.

Managers consistently requested resource materials more often than training or technical assistance as the vehicle for receiving assistance. This represents a dramatic departure from the assumption that training is usually the preferred option. This also lends credence to the NIC approach with the small jails project which stresses materials development.

The needs assessment concludes that small jails have pressing problems and needs, that small jail managers are interested in improving their jails, and that substantial resources are available. All of the requisites for change and improvement have been identified. The challenge which emerges is to combine the needs, interest and resources into an effective response to small jail problems.

I. NIC Looks At Small Jails

Introduction

In September 1980, the National Institute of Corrections Jail Center in Boulder, Colorado launched an intensive effort to focus on small jails in the United States. As the final step in this effort, the NIC funded a twelve-month project with several purposes, one of which was to conduct a small jails needs assessment.

In December 1978, a group of jail administrators, sheriffs, state trainers and others assembled at the NIC Jail Center for a three-day workshop (Rural Jail Management Planning Program). This group produced a series of analyses of the needs of rural and small jails, and proposed a variety of solutions to identified needs.

What is a Small Jail?

Defining a "small" or "rural" jail has been a difficult and controversial task. The NIC Jail Center settled on a definition of "facilities with a capacity or average daily population of twenty-five inmates or less." Some NIC staff preferred to define small jails by the amount of staff available, the type of organization, or by the nature of the community which is served by the facility. To date, the prevailing determinant has been the "twenty-five or less" rule.

Why Small Jails?

The NIC staff and the participants in the December 1978 conference concluded that:

Small jails have special problems and constraints which require special solutions and efforts;

Small jails have a variety of needs which are currently unmet;

In addition to "sensitizing" existing efforts and grants to the needs of small jails, a separate effort was needed to identify and address small jail needs.

The NIC participants' conclusions were based primarily on personal experience; no data had been developed to assess the characteristics and needs of small jails as a special group, nor had many managers of small jails been involved in NIC training programs. Because of the tentative basis for the grant initiative, a more detailed and thorough needs assessment was felt necessary as a means of verifying or disputing the conclusions of NIC and its advisors. To assist NIC in the needs assessment, Community Resource Services, Inc., (CRS) was enlisted. CRS was also responsible for:

1. Developing resource and training materials for small jails;
2. Testing materials and revising them in response to review by jailers;
3. Orienting state trainers to the materials (three regional workshops); and
4. Delivering final, copy-ready materials to NIC for distribution.

II. Needs Assessment Methodology

Preparation and execution of the needs assessment involved a series of stages described in the following sections. Many of these stages were implemented simultaneously.

Identifying Small Jails

The first task required identification of small jails in the United States. Several agencies provided partial listings of jails, sheriffs' offices and other sources; however the only comprehensive listing encountered was the 1978 Jail Census (United States Department of Commerce, Bureau of Census). This listing of jails proved to be the most reliable and comprehensive source.

According to the jail census, a total of 2,388 facilities could be considered small jails (1978 average daily populations with twenty-five inmates or less). Most of the facilities were operated by counties although approximately twenty percent were operated by other units of government (usually cities or towns). Through mailing and site visits, many of the small facilities in the census which are operated by cities and towns were found, in fact, to be "lock-ups," used only for short-term detention. The Census Bureau asked facilities to indicate in its 1978 survey if they held inmates for more than forty-eight hours. However the lock-ups that hold inmates for up to seventy-two hours also responded and were recorded as jails. CRS estimates that there are only approximately 2,000 small jail facilities in the United States based on the rate of error encountered with the Census information.

A further problem with the census data is that many facilities have either been closed since 1978 or have increased in capacity and/or population. These situations eliminated an additional number of facilities from involvement in the needs assessment. In spite of the problems encountered with the census information, it proved to be the best available source and was used successfully as a basis for the mail survey.

Table 1 (on the following page) shows the number of small jails in each state and the District of Columbia (from Bureau of Census statistics). The number of small jails in each state ranged from a high of 240 in Texas to states which reported no small jails (Connecticut, Delaware, Rhode Island, Vermont and the District of Columbia). The table also presents information on the mail survey conducted by CRS.

Identifying Previous Surveys and Research

Considerable effort was made to secure copies of any relevant research and surveys which had been conducted. Several were identified including a recent survey by the National Sheriffs' Association and a current survey by ITREC for NIC. Information on the results of these surveys was secured as it was available.

In addition, articles and publications were researched for indications of small jail needs. Generally these did not produce information which described small jail situations.

Although substantial demographic information was available (primarily through the jail census), it was concluded that a separate initiative was needed to secure information and insights for the small jails project.

Formulating Questions

The information needs for the small jails project were carefully outlined. Needs which were met by existing data and research were deleted from a master list of questions. The remaining questions were translated into a comprehensive survey instrument which was designed as a mail survey and a site interview instrument.

A six-page survey form was developed; although this appeared too long for the respondents, efforts to consolidate questions resulted in loss of valuable information. In spite of serious concerns about the willingness of small jail staff to respond, the six-page instrument was selected for use.

The survey instrument was designed to secure maximum information and insights from respondents. As a result, the survey included checklists, multiple choice responses and several open-ended questions. This variety of questions complicated the coding and analysis process but ultimately yielded a wealth of information.

Securing Information

CRS decided to produce several sets of information capable of comparison

TABLE 1

Small Jails, Surveys and Returns

State	Number of Small Jails*	Number of Surveys Sent	Percent of Jails Surveyed	Number of Responses	Percent Respon-ses	Number of Site Visits
AL	50	17	34	11	65	1
AK	6	2	33	1	50	0
AZ	21	8	38	5	63	0
AR	77	25	32	7	28	1
CA	35	12	34	7	59	0
CO	51	16	31	5	31	1
CT	0	0	0	0	0	0
DE	0	0	0	0	0	0
FL	45	15	33	3	20	1
GA	141	47	33	6	13,	2
HI	4	2	50	2	100	0
ID	38	13	34	4	31	0
IL	77	27	35	11	41	1
IN	68	23	33	13	57	1
IA	85	29	34	11	38	1
KS	77	25	32	7	28	2
KY	94	32	34	6	19	1
LA	51	17	33	3	18	0
ME	8	3	37	2	67	8
MD	7	2	29	2	100	1
MA	1	0	0	0	0	1
MI	57	20	35	8	40	32
MN	55	19	34	8	42	1
MS	66	22	33	4	18	1
MO	120	39	33	14	36	1
MT	55	19	35	4	21	0
NB	72	23	32	6	26	3
NV	17	6	35	3	50	0
NH	3	1	33	1	100	1
NJ	3	1	33	0	0	1

TABLE 1 (Continued)

State	Number of Small Jails*	Number of Surveys Sent	Percent of Jails Surveyed	Number of Responses	Percent Responses	Number of Site Visits
NM	28	9	32	2	22	1
NY	24	8	33	4	50	3
NC	62	21	34	6	26	2
ND	39	13	33	3	23	1
OH	100	34	34	14	41	2
OK	89	30	34	9	30	2
OR	28	9	32	2	22	0
PA	31	9	29	3	33	2
RI	0	0	0	0	0	1
SC	34	11	32	5	45	2
SD	42	14	33	5	36	2
TN	62	21	34	7	33	3
TX	240	80	33	19	24	2
UT	20	7	35	2	29	0
VT	0	0	0	0	0	0
VA	46	15	33	4	27	1
WA	39	14	36	6	43	2
WV	38	12	32	4	33	1
WI	53	18	34	6	33	1
WY	29	9	31	2	22	0
Total	2,388	799	33	257	32	91

*U.S. Dept. of Commerce, Bureau of Census, 1978 Jail Survey.

and contrast using a variety of methods to collect information for the needs assessment.

The primary method was an extensive mail survey of small jail administrators. Surveys were mailed to a random sample of thirty-three percent of all small jails in the United States (using Census Bureau data). The surveys were mailed in early December 1979, along with an introductory letter.

In all, 257 responses were received from 799 surveys mailed. This represented a return rate of more than thirty-two percent which, considering the length of the survey and the time of year, was very encouraging. Based on these results, it appeared that many small jails were both available and interested.

The 257 surveys received represented an eleven percent sample of all small jails in the United States. The number of surveys returned and the method of sampling resulted in a data base which has a high statistical significance and may be used to project characteristics and interests of all small jails. Of course a mail survey is inherently biased by the type of persons who choose to respond. The data base probably reflects characteristics of a group of administrators who are at least a little interested in the project.

In addition to the mail survey, a series of site visits were conducted by CRS staff based in Maine and in five other states. These site visits used the same instrument as the basis for an interview with the jail administrator and were supplemented by a checklist of information and impressions to be secured during the visit and a tour of the facility. In all, a total of thirty-six formal site visits were made in twenty-eight states. The information collected in these visits has been tabulated separately and compared to the information from the mail survey.

The site visits were supplemented by CRS staff reports of visits to small jails made within the past two years. These visits, although not originally made for the purpose of the grant, were reviewed and relevant insights were extracted. These contacts brought the number of actual on-site contacts with small jails to ninety-one jails in thirty-seven states.

Finally, different sources of information were tapped through surveys and interviews. State jail inspection personnel who have close contact with small jails were surveyed during two seminars in Boulder, Colorado. They were asked about their impressions of small jail characteristics, problems, needs and interests. In all, forty-seven jail inspectors, fifteen state officials, six state sheriff association staff and six others (jail staff and trainers) were surveyed, representing forty-four states. The results of these surveys provided interesting comparisons and contrasts to the data collected in the field and through the mail.

The small jails needs assessment was a comprehensive and thorough attempt to secure valid and usable insights into the needs and interests of small jails and their administrators. The following sections present many of the findings of the needs assessments along with commentary and preliminary analysis.

III. Characteristics of Small Jails

The characteristics of small jails have been described in several publications issued by the U.S. Department of Commerce, Bureau of Census and LEAA. These provide an indication of the number and types of jail facilities in the United States but do not provide detailed insights into small jails.

A 1972 jail census identified 2,901 jails with fewer than twenty-one inmates. By 1978, this number had apparently decreased to 2,388. These surveys indicated that small jails did not separate inmates by status (pre-trial from sentenced) as frequently as larger facilities. This practice was also identified for the separation of intoxicated inmates, work release inmates and first offenders. Small jail practices appeared to be consistent with larger facilities in the separation of other types of inmates.

Similar demographic information is available through the 1978 census. This data was used to complement the information collected in this needs assessment and is not reviewed here.

Small jails contacted through the mail survey reported vacant staff positions in thirty-nine percent of all responses. Fifty-six percent of all respondents indicated that current staff levels were not adequate to operate the facility.

Staff availability for training was reported by small jail staff in the mail survey. Results are seen below in Table 2.

Table 3 (on the following page) displays the data from the mail survey regarding the type of training provided to jail staff. The table shows that primary training efforts are in-service and on-the-job, and that pre-service training is seldom offered.

TABLE 2

Availability of Line Staff, Supervisors and Administrators

Number of hours per year	Percent	
	On-site	Away-from jail
1-40	28	21
41 or more	18	12

TABLE 3

Types of Training Available

Type of Staff Which Receives the Training	Percent of Facilities Offering Training			
	Pre-Service	In-Service	On-the-Job	Other
Line Staff (guards, matrons, correctional officers, etc.)	15	44	69	16
Supervisors (shirt com'drs, sergeants, etc.)	20	40	52	16
Administrators (sheriff, undersheriff, jail admin. etc.)	26	48	56	20
Other (cook, custodian, program staff, etc.)	12	22	47	8

These figures are based on mail survey responses which were predicated on the availability for increased or improved training opportunities.

Forty-three percent of all respondents reported dissatisfaction with current training opportunities. Several reported that securing replacement staff during training was difficult; others reported that training locations were too distant to facilitate involvement. Lack of available time and funds were cited in several instances. Results from field visits verified these responses and went on to identify dissatisfaction with training providers, length of training programs (some complained that sessions were too long, others too short) and lack of relevant training topics and programs.

Fifty-four percent of all mail survey respondents reported familiarity with current or recent court cases concerning jails and detention. Most reported hearing about the cases from other administrators and sheriffs through their own experiences in being sued and through state and national organizations.

Ninety-four percent of all respondents reported having read applicable state jail standards (in states which had standards). Thirty-five percent of the respondents reported having read other sets of standards including other state standards and national standards. Site visits confirmed these insights; most administrators interviewed seemed to have a good working knowledge of state standards.

Table 4 (on the following page) presents information on written policies and procedures. The table indicates most respondents reported having either complete or partial written policies and procedures in all categories except inmate services and programs. Field visits allowed CRS staff to inspect written policies and procedures. Observations from field staff indicate that written policies and procedures which most administrators consider "complete" were

TABLE 4

Written Policies and Procedures

Facilities Reporting by Category	Percent Complete	Percent Some	Percent None
General Operations	54	35	8
Security	56	34	7
Organization/Administration	51	31	11
Inmate Rules and Regulations	63	23	10
Inmate Control and Discipline	52	31	11
Admissions and Release	68	23	6
Health Care	56	30	10
Personnel	54	28	13
Emergencies	58	26	11
Inmate Services and Programs	24	40	30

sorely lacking in accuracy and content. "Partial" procedures usually were just that; brief sketches and directives for the staff assembled in a file folder, displayed on a bulletin board or scattered throughout the facility. The field visits identified a greater lack of written policies and procedures than was indicated in the mail survey; these findings were verified by the survey of jail inspectors who noted lack of written policies and procedures as a major deficiency in most small jails.

Small jail administrators were asked to list agencies and organizations with which they had frequent or regular contact. The respondents to the mail survey reported contacts with:

State sheriffs' associations--48 percent
National Sheriffs' Association--39 percent
State police officer organizations--11 percent
Other state organizations--36 percent
Other national organizations--18 percent
Other types of agencies/organizations--24 percent.

The mail survey indicated that sheriffs' associations, both state and national, might be good sources of contact with small jail administrators. These findings were confirmed and amplified by the field visits and jail inspectors surveys.

Small jails are located throughout the United States. Largest concentrations of small jails were found in the south, south central and north central states. Response rates for each state varied (see Table 1).

The size of the jails surveyed was identified through the census data. Thirty-nine percent of the jails responding to the survey had five or less inmates on an average day in 1978; seventy-five percent of all respondents had average daily populations of fifteen or less. Ninety-one percent of all respondents had average daily populations of twenty or less.

The size of the governmental unit served by each facility was also identified through the census data. Fifty-one percent of all survey respondents served communities or counties with populations of 20,000 or less. Ninety-one percent of all respondents served communities/counties with populations of 50,000 or less.

Jail inspectors were asked to describe the characteristics of small jails. In all but a few instances, the characteristics cited by inspectors were negative and appeared in later sections of the survey as problems and needs (i.e., lack of staff, lack of funding, outdated facilities, etc.). The only positive characteristics reported by the inspectors were:

- higher use of community resources
- more attention provided to inmates
- more rehabilitation success
- informal and positive atmosphere.

These positive characteristics were reported by less than five percent of all jail inspectors surveyed; however the field staff identified these and other positive characteristics more frequently. Field visits identified the attributes listed above and others, including good sanitation, apparently good working environment and staff attitudes and often low rates of staff turnover (usually in rural locations).

The negative characteristics of small jails are reported in the following section. Although negative aspects of small jails surfaced more frequently in the mail survey and the jail inspector survey, many positive aspects of small jails were also identified. Thus it is clear the real challenge in improving small jails is to address and facilitate the correction of their deficiencies and problems while retaining the positive aspects of their facilities and operations.

IV. Problems

NIC assumed that small jails faced many problems, some of which might be different than those of larger facilities. The problems of the small jails were assessed through the mail survey, on-site visits and surveys and discussions with jail inspectors.

The definition of problems was approached from two perspectives. In both surveys respondents were asked to cite difficulties encountered in complying with standards. They were then asked to cite the most pressing problems they faced. This approach produced some interesting comparisons and contrasts.

Site visits consistently verified the information produced by the two surveys. The site visit data have been analyzed but is not included as detailed information in the tables in this section.

Compliance with Jail Standards

Table 5 (on the following page) describes the results of the two surveys. Jail managers were asked to list areas of least compliance with jail standards in the mail survey. Jail inspectors were asked to list areas with which small jails have the most difficulty complying with jail standards.

The results of both surveys were tabulated. Responses were grouped into seven categories and the results were ranked to reflect the frequency of responses (a "1" ranking indicates the most frequent response, a "7" indicates the least frequent).

Jail managers cited standards compliance problems with facility operations and inmates services/programs/activities as the most pressing areas of difficulty; jail inspectors cited inmate services/activities/programs, operations and staff.

Table 6 (on page 218) displays the ranking by both groups of respondents and indicates some of the specific problems listed by the respondents. Jail manager and jail inspector responses are compared and contrasted in Table 7 (on page 220).

Most Pressing Problems

Both groups of respondents were asked to list the most pressing problems faced by small jails. Although some respondents perceived this as a duplication of the question which asked for areas of compliance difficulty, many respondents listed different problems in this category. In addition, the frequency of response varied substantially in the responses to this question.

Table 6 presents the ranking of responses of the jail managers and jail inspectors. This table, as in Table 5, reveals discrepancies between the ranking of responses by respondent groups. Responses and rankings are compared in Table 7.

Specific Problem Areas

Respondents were asked for information on specific problem areas in the mail survey of jail managers. If a respondent indicated that his/her current staff was not adequate, he/she was asked to describe why the staff was not adequate. Similarly, respondents who indicated dissatisfaction with current training were asked to describe why they were not satisfied.

Respondents who indicated that their staff was not adequate clarified their responses as follows:

Reason Cited for Inadequate Staff
(Numbers are frequency of response/rank)

1. Not enough staff to provide 24-hour supervision of inmates.
2. Jailer has law enforcement duties (i.e., dispatch).

TABLE 5

Areas Posing Standards Compliance Difficulties Ranking of Jail Managers and Jail Inspectors Based on Frequency of Responses in Surveys

Area of Compliance Difficulty Identified In Surveys	Ranking	
	Jail Manager	Jail Inspector
Facilities (general, age, crowding, equipment, support systems, lighting, space)	1	4
Operations (food service, safety and security, separation, classification)	2	2
Inmate Services/Programs/ Activities (recreation, library, programs, medical/ dental services, juveniles, mentally ill)	3	1
Administration (written policies and procedures, funding)	4	5
Staff (not enough, training)	5	3
Legal Issues (liability, inmate rights, discipline)	6	6
Other (lack of community support, etc.)	7	7

Note: Lower number indicates higher rank.

TABLE 6

Problems Cited by Jail Managers and Jail Inspectors
Ranking of Problems Cited Based on Frequency in Surveys

Problem Area Identified	Ranking	
	Jail Manager	Jail Inspector
Facilities (crowding, space, lighting, age)	1	3
Operations (problem inmates, separation, safety and security, communications, food service, sanitation, admissions, release, inmate assaults, transportation)	2	5
Staff (need more, low pay, more training, motivation, stress, morale)	3	2
Inmate Services/Activities and Programs (recreation, medical programs, mental health)	4	4
Administration (policies and procedures, coordination with other agencies, funding and budgets, records)	5	1
Legal Issues (inmate rights, liability)	6	6
Other (standards not sensitive to small jails, standards change too often, community support, courts)	7	7

Note: Low number indicates high frequency of response in surveys.

3. Not enough staff to provide coverage for staff days off.
4. Insufficient funds for staff/relief.
5. Not enough female staff.
6. Other--training, trustworthy guards.

Respondents who were dissatisfied with current available training described their concerns as follows (in order or frequency):

1. Staff are not available for training (no replacement staff, not enough staff time for training, understaffed).
2. Location of training (too distant).
3. Trainers not adequate/qualified (not sensitive to small jail needs or issues, not professional).
4. Frequency (not frequent enough).
5. Content (not enough corrections training, too general).
6. Type of training (no pre-service, no on-the-job, no in-service).
7. Lack of training resources.
8. Do not hear about resources and training programs.
9. Timing/scheduling (too long or too short, respondents did not agree on desired scheduling and timing).
10. Other (staff turnover too high to accomodate training, training not useful, no uniformity in training).
11. Specific topics needed (jail standards, first aid, legal issues, programs, security and control, human behavior).

Comparative Analysis

The insights and information obtained from the two surveys did not always correlate. Respondent groups prioritized problems differently in response to similar questions; the priorities of the two respondent groups seldom matched those of the other group.

Table 7 presents a comparison chart of the rankings assigned to problem areas by the two respondent groups. The table also shows a "cumulative index" which is the sum of the four rankings. This index provides a rough means of assessing the overall priority assigned each problem area by the two groups. The index indicates that problem areas of concern could be ranked in the following overall priority:

1. Facilities
2. Operations
3. Services/Activities/Programs
4. Staff
5. Administration
6. Legal Issues
7. Other

Table 7 shows that the responses of jail managers were generally consistent with regard to general problems and compliance problems. The category with the largest discrepancy was "staff" which was assigned a low priority with regard to standards compliance and a substantially higher priority as a general problem.

Jail inspector responses were less consistent between the two questions. Operations was assigned second priority as a standards compliance problem but was viewed as fifth priority as a general problem; inmate services/activities/programs was assigned first priority as a standards problem, but only fourth priority as a general problem. Similarly, administration problems were viewed as fifth priority as a standards issue but were rated first as a general problem. These discrepancies could be viewed as indicative of the jail inspectors' sense of the "symptoms" which are evidence of jail problems (evidenced by lack of compliance with jail standards) and the underlying causes of the problems (administration and staff rated as highest priorities).

TABLE 7

Comparison of Jail Manager and Jail Inspector Responses to 'Compliance Difficulties' and 'General Problems' from Tables 5 and 6

Area of Response	Jail Managers		Jail Inspectors		Cumulative Index
	Compliance	General	Compliance	General	
Facilities	1	1	4	3	9
Operations	2	2	2	5	11
Staff	5	3	3	2	13
Inmate Serv/ Prog/Activities	3	4	1	4	12
Administration	4	5	5	1	15
Legal Issues	6	6	6	6	24
Other	7	7	7	7	28

Note: Cumulative index is total of ranking numbers; lower number indicates higher cumulative frequency of response (higher cumulative ranking).

Comparison of manager priorities to inspector priorities offers some interesting observations. Managers tended to attribute problems to facilities and operations; inspectors seemed to assign the causes of problems to the administrators and staff. Perceptions of areas of compliance difficulties were not substantially different; the major area of disagreement was with facilities which managers viewed as the principal area of difficulty and which inspectors assigned a lower priority. Perceptions of general problems varied markedly between the two respondent groups. The area of most disagreement was administration which inspectors cited as the major problem and which managers cited as a much lower priority.

V. Interests

One of the primary concerns of the small jails project has been to assess the interests of small jail administrators and managers. An extensive checklist was included with the mail survey and was administered during site visits. While there was some uncertainty that jail managers would take the time to fill out such a long checklist, the responses were overwhelming with more than ninety percent of all surveys returned including the checklist completed in detail. The responses were also surprising, as the charts and narrative which follow describe.

Table 8 below shows the level of interest which respondents showed in specific topics in three ways: percent of respondents interested and the level of interest (a, b, and c), the cumulative percent of all respondents who were interested (d) and an index which reflects the "weighting" from the levels of interest (e).

The interest levels are ranked in Table 9 (on page 224). Table 9 also displays data on the type of interest which respondents indicated.

Perhaps the most striking conclusion from the interest survey is the consistent amount of interest displayed by all respondents. Even the topics with the lowest expressed interest captured the attention of more than half of all respondents.

TABLE 8

Level of Interest in Topics

	a	b	c	d	e
Topic	No Interest	Some Interest	Much Interest	Cumul. Interest	Index*
General					
Inspecting your own jail	4	27	61	88	984
Legal issues (liability, case law, responsibilities)	2	25	67	92	1057
Standards and compliance	3	21	71	92	1069
Publicity and community relations	10	33	49	82	885

Table 8 (Continued)

	a	b	c	d	e
Topic	No Interest	Some Interest	Much Interest	Cumul. Interest	Index*
Administration					
Organization	6	28	48	76	836
Reducing conflicts in the organization	13	25	51	76	845
Written policies and procedures	2	25	63	88	1007
Records	4	24	64	88	1011
Budgets (developing, managing, etc.)	9	28	55	83	928
Planning, grantsmanship	9	21	60	81	930
Management					
Staff development (selection, retention, etc.)	9	21	51	72	809
Motivating employees	8	23	56	79	905
Increasing staff morale/ decreasing 'burn-out'	9	22	56	78	891
Training	4	19	67	86	1007
Management styles	11	36	39	75	776
Delegating responsibility	9	34	48	82	839
Reducing stress	11	27	49	76	837
Writing skills	12	35	41	76	790
Verbal communications (interpersonal, etc.)	10	31	47	78	842
Operations					
Intake/admissions/release	9	34	47	79	892
Identifying problem inmates (suicidal, escape, etc.)	11	27	49	76	984
Classifications and separation	12	31	44	75	800
Reclassification	16	32	37	69	719
Emergencies and problem situations	7	22	63	85	983

Table 8 (Continued)

Topic	a No Interest	b Some Interest	c Much Interest	d Cumul. Interest	e Index*
Alternatives to incarceration, pre-trial release	20	31	36	67	702
Safety and security	3	21	69	90	1039
Sanitation	7	28	54	82	908
Food service	12	27	50	77	849
Inmates					
Control, rights and discipline	4	23	64	98	820
Inmate services (health, religious, library, etc.)	7	35	49	84	895
Inmate activities (indoor, outdoor, etc.)	16	33	42	75	787
Inmate programs (counseling, education, etc.)	20	36	35	71	726
Involving the community in inmate programs	32	32	25	57	566
Using volunteers	37	28	25	53	528
Facilities					
Physical plant (how to operate, maintain, etc.)	12	28	46	74	814
Using space efficiently	14	24	51	75	841
Changing your jail (renovation, addition, etc.)	18	21	50	71	794
Working with an architect	26	19	40	59	649

Note: Sum of a, b and c does not total 100 percent; difference between the sum and 100 is the percent of respondents who did not answer.

*Interest index calculated by multiplying the number of persons with some interest by "3" and adding to the product of the number of persons with "much" interest multiplied by "5" (presents analysis of interest based on weighting by level).

Type of Interest

Perhaps the greatest surprise which the mail survey produced was the overwhelming interest of jail managers in resource materials. In every instance, resource materials were requested more frequently than training or technical assistance. This represents a dramatic contrast to the NIC emphasis on training programs and again verifies the approach of its new small jail project and emphasis on materials development.

Table 9 presents the type of interest displayed for all topics. Interest in training was substantial but site visits confirmed that most jail managers do not or cannot avail themselves of training.

TABLE 9

Interest Ranking and Type of Interest

	1	2	3	4	5
	Interest Ranking		Interested In		
Topic	Cumul. Inter.	Index	Res. Matl.	Training	Tech. As't
General					
Inspecting your own jail	3	6	58	37	6
Legal issues	1	2	63	35	6
Standards and compliance	1	1	57	30	6
Publicity and community relations	10	15	50	32	5
Administration					
Organization	15	22	45	27	6
Reducing conflicts in the organization	12	11	42	28	5
Written policies and procedures	4	5	59	31	6
Records	4	4	52	34	6
Budgets	9	9	50	29	6
Planning and grantsmanship	11	8	52	28	6
Management					
Staff development	18	25	40	29	5
Motivating employees	12	11	42	28	5
Increasing morale/decreasing burn-out	13	14	44	27	4
Training	6	5	44	40	6
Management styles	16	30	41	24	3
Delegating responsibility	10	20	42	26	3
Reducing stress	15	21	41	29	5

TABLE 9 (Continued)

	1	2	3	4	5
	Interest Ranking		Interested In		
Topic	Cumul. Inter.	Index	Res. Matl.	Training	Tech. As't
Writing skills	15	28	34	31	4
Verbal communication	13	18	37	31	4
Operations					
Intake/admissions/release	12	13	46	28	5
Identifying problem inmates	15	6	48	37	6
Classifications and separation	16	26	42	26	4
Reclassification	20	32	40	22	4
Emergencies and problem situations	7	7	47	34	8
Alt. to incarc/pre-trial release	21	33	42	19	5
Safety and security	2	3	57	37	5
Sanitation	10	10	47	23	4
Food service	14	16	52	23	6
Inmates					
Control/rights/discipline	5	23	39	35	4
Inmate services	8	12	51	20	4
Inmate activities	16	29	49	19	4
Inmate programs	19	31	48	20	4
Involving the community in programs	23	35	40	18	4
Using volunteers	24	36	37	16	4
Facilities					
Physical plant	17	24	42	23	3
Using space efficiently	16	19	41	23	5
Changing your jail	19	25	40	25	8
Working with an architect	22	34	35	18	5

Note: This table presents the levels of interest in each topic rank-ordered based on cumulative percentage of interest (1) and the index shown in Table 7 (2). Columns 3, 4 and 5 display the percent of respondents to the mail survey who indicated an interest in resource materials (3), training (4) and technical assistance (5). Percents in these three columns do not total 100 because respondents were allowed to check any or all of the choices.

NIC is preparing resource materials which are versatile enough to be used on-site at a jail without outside support as part of training programs for managers or as part of training offered by managers. The results of the interest checklist seem to conclude that such versatility is required.

The figures in Tables 8 and 9 indicate substantial interest on the part of respondents in all topics. Several topics rated consistently high with all jail managers who responded, including:

- Standards and compliance
- Legal issues
- Safety and security
- Inspecting your own jail
- Policies and procedures
- Records
- Budgets
- Training
- Emergencies
- Inmate services

The two tables provide the best display and review of interest levels. Interests corresponded generally with the problems and needs identified by jail managers and jail inspectors. Notable exceptions are physical plant topics (physical plant, using space, changing the jail, working with an architect) which scored consistently low. This contradicts the heavy emphasis which jail managers seemed to place on the importance of physical problems and compliance difficulties.

Other areas in which managers showed little interest include programs, classification, community resources and volunteers.

CRS disagrees with the expressed interests identified through the mail survey. Site visits and discussions with jail managers and inspectors have led CRS to conclude that physical issues, community involvement, inmate programming and classification are all key needs and problems in small jails. The lack of interest displayed by jail managers is perhaps indicative of the problem that jail managers do not perceive the need to improve in these areas. CRS will be making major efforts to convince jail managers to use resource materials which are being developed in these areas.

One section of the mail survey focused on written policies and procedures. Mail responses, jail inspector surveys and site visits identified the lack of written policies and procedures as a major problem. It was encouraging to find the level of interest expressed by jail managers in response to the questions shown on Table 10 on the following page. The emphasis of the small jail project on preparing a set of model policies and procedures and a workbook appears justified.

TABLE 10

Jail Manager Interest in Policies and Procedures

	a	b	c	d
	Percent			
Question	No Interest	Some Interest	Much Interest	Cumul. Interest
Are you interested in:				
1. Developing new policies/procedures or revising current ones?	12	21	63	84
2. Reviewing a set of model policies and procedures for small jails?	7	9	82	91
3. Receiving a workbook on how to develop and revise policies and procedures?	8	11	79	90
4. Receiving assistance in developing or revising your policies and procedures?	18	25	54	79

Note: The tabulation of responses to questions in the mail survey are displayed here. The percent of respondents who showed no interest (a), some interest (b) and strong interest (c) is shown for each question. A cumulative percent of all respondents showing interest is also displayed (d), calculated as the sum of a, b and c.

Summary

The needs assessment effort yielded a wealth of data and information which NIC can use to refine and focus its efforts; resource materials and training programs will reflect the findings of the needs assessment. The subsequent implementation plans and strategies for the small jails initiative also have been shaped by the assessment results.

The needs assessment effort has produced insights which have not been secured at the national level. Unfortunately, a comparable set of insights for larger jails does not exist and it is impossible to compare small jail needs systematically to larger jail needs.

This assessment has revealed that small jails have pressing problems and needs, and that small jail managers are concerned about their problems, are available for assistance and are interested in improving. In addition, a substantial support system has been identified, including jail inspectors, state sheriff associations, trainers and other groups and individuals.

All of the requisites for change and improvement have been identified. The challenge is to merge the needs, interests and resources into an effective response to small jail problems. Hopefully, time will demonstrate that the NIC has taken the first, major step to that end.

Editors' Note

Community Resource Services, Inc., will produce five separate but interrelated small jail publications:

- Resource Manual for Managers (a collection of reprinted materials, original text, case law abstracts, resource listings and a problem-solving guide).
- Management Units for Small Jails (checklists to allow managers to assess their compliance with jail standards and current case law).
- Policy and Procedure Workbook for Small Jails (a step-by-step approach to developing or revising policies and procedures).
- Policy and Procedure Manual of Oxford County, Maine Jail (a sample of a comprehensive policies and procedure manual for small jails).
- Delivery Guide (ideas and resources for individuals and groups involved with the distribution and use of small jail materials).

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CHAPTER XIII

A NATIONAL STRATEGY FOR CHANGE IN RURAL JAILS

by Paul A. Katsampes

Introduction

The problems faced by rural jail managers and change agents trying to affect the smaller jails have been many and difficult to solve. Historically, all jails have overlooked areas of concern such as management and organization development, correctional philosophy development and facility improvement.[1] Small jails with an average daily inmate population of twenty-five or under have been totally ignored as the emphasis on jail improvement has focused on large urban detention facilities and prisons.

Although approximately 2,500 of the 4,000 jail systems in the United States have average daily populations of under twenty-five inmates,[2] the problems of small jails have been a low priority for change agents. Larger urban jails have received recent attention because of several factors:

1. The few large jail systems detain approximately ninety percent of the nation's jail inmates. These systems have demanded immediate attention because of large inmate populations.
2. Larger urban areas are often more up to date concerning legal issues and requirements. Consequently, more attorneys are willing to initiate legal action against jail management.
3. The small jail manager is often hampered by a lack of time to attend outside training or develop internal policy. This small jail manager usually has responsibilities other than the jail operation. Frequently there is no replacement available to allow absence from the job.

The mission of the National Institute of Corrections Jail Center, a component of the U.S. Department of Justice, is to stimulate and support efforts to change and reform jail operations and administrations nationwide. Recognizing the scant attention to date given to the problems of the small, rural jail and mindful of the increased intervention by the judiciary into jail functioning, the Center has launched a national initiative to begin addressing the needs of the small jail manager and creating change in the operation and management of these facilities. The following pages describe the NIC initiative and how it was developed.

Needs Analysis and Solution Identification Process

Essentially the NIC goal was to develop an effective strategy which could have an impact on small, rural jails throughout the country. The first step of the strategy development process was a thorough and organized needs analysis of the small jail situation. To that end a two-day "jail hearings" session was held in Boulder, Colorado, December 7-8, 1978, under NIC aus-

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pices. Participants for this planning session were selected from every region of the United States and represented various functions connected with small jails. They included eight sheriffs, three jail administrators, two representatives of sheriffs' associations, three state or regional planners, an AMA representative and one state jail inspector. All members had extensive experience with jails and specifically with small or rural jails.

The needs analysis actually began prior to the Boulder hearings with a preliminary questionnaire which was compiled and summarized for participants' use early in the planning program.

The two-day program opened with a feedback session of the summarized questionnaires. The first major task of those in attendance was problem identification. By employing a highly structured small work group process, the final result of this problem identification stage was a list of the five most important problems or needs of small jail managers as determined by the selected members of the hearings group. These five major problems or needs are as follows:

1. Lack of Comprehensive Criminal Justice Planning

   Federal, state and local planners have thus far failed to prepare the criminal justice system to meet its responsibilities, particularly in terms of the purpose, function and implementation of the county jail. A principal reason has been the failure to involve all the various players in the planning process--sheriffs, judges, bar associations, district attorneys, county commissioners, state legislatures, local citizen groups, inmates, et al. The realities of the political process have been inaction, misunderstanding and the increasing intervention of the federal courts.

2. Lack of Written Policies and Procedures

   A written policy provides a guideline to train and educate new employees. It furnishes a working guideline for all personnel (as well as inmates) to follow pertaining to obedience and providing information. Policies and procedures also give direction and training to employees who, in rural areas, often work without basic training. The lack of written policies has resulted in legal penalties for sheriffs and staff members of departments.

3. Lack of Alternatives to Incarceration

   There is an excessive amount of jail time that offenders face due to the lack or nonexistence of pre- or post-trial alternatives to incarceration. Adequate programs would reduce the adverse effects of incarceration placed upon the offender as well as society.

4. Lack of Staff Development

   Small jail managers do not have adequate skills or resources to recruit, hire, train and retain qualified personnel to carry out the goals and objectives of their agencies.

5. Lack of Adequate and Realistic Jail Standards

   a. Throughout the United States, standards for the construction and operation of jail facilities are inadequate. Or where standards have been developed, they have been written by a multitude of special interest groups who have made it difficult for jail operators to meet the economic impact of such standards.

   b. Law enforcement at the state level must establish standards for correctional operation and construction to preempt the area from concern of federal government and courts. Such standards also could be used in requesting funds from local governments to comply with standards. Such standards would take into account specific local conditions.

      There should be a distinction between minimum "constitutional" standards and idealized "standards" promulgated by special interest groups.

With the major problem areas determined, the Boulder conference moved to the next major task--suggesting solution strategies for the identified problem areas. Once again, through the use of a structured small group process, both short- and long-term solution strategies were proposed as follows.

Comprehensive Planning

Short-term Strategy:

Three short-term prototype programs should be developed with no more than one program being facilitated by any professional planning organization. The preparation of each comprehensive plan should be by a local group including the sheriff, a county commissioner, a judge, the district attorney, a state legislator, a citizen and an inmate.

Each plan must include an analysis of the following:

a. The function of the local jail.
b. The operation of the jail--state, county.
c. Projections of future community needs.
d. Physical plant.
   (1) An evaluation of requirements of likely/existing standards.
   (2) The ability of the present plant to serve.
   (3) The need for a new plant.

(4) Design in terms of standards.

(5) The need for specific policies and procedures.

(6) Methods to attain desired policies and procedures.

(7) Program requirements (community resources).

(8) Staffing requirements.

e. Alternatives to incarceration.

f. The need for expert resources.

g. A method for publishing and releasing the plan to the press, local service groups, town officials and other prime movers in the community.

h. A demonstration program of public education, from the local level to state government, designed to create pressure for discussion and implementation of the plan.

Long-term Strategy:

The long-term strategy should include continuing grants to encourage other communities to develop their own plans as well as seminars and training programs to teach local people how to prepare for comprehensive criminal justice planning.

Development of Model Policies and Procedures

Short-term Strategy:

Through a granting process, a model policy and procedure manual should be developed including guidelines to assist agencies in developing policies and procedures which meet their specific needs and explanations of legal decisions which make certain policies and procedures necessary. Copies of the model policy and procedures manual should be provided to requesting agencies.

Long-term Strategy:

The group suggested the National Institute of Corrections or some other federal agency should develop, on a long-term basis, the following steps:

a. Develop a training seminar at the NIC Jail Center for jail administrators involved with departmental policy manual development.

b. Provide regional seminars for policy development training for jailers.

c. Provide a model training manual to all rural jails.

d. Furnish updated information material on changes that should be made in outdated departmental policy rules. (this would be provided as information when court decisions become available).

e. Periodically review the state of the art on policy development.

Alternatives to Incarceration

Short-term Strategy:

a. Develop adequate technical assistance resources to provide seminars or training sessions for law enforcement and corrections officers regarding pre- and post-trial alternatives. The seminars should be directed at various regional and subregional levels.

b. Develop a feasibility of economic analysis of the pre-trial and post-trial alternatives to incarceration as they relate to construction and operating expenses. How the programs can reduce monetary costs to the community and reduce the social costs to the offender and the community should be clarified.

Long-term Strategy:

a. Distribute data from various jurisdictions that have successfully implemented pre- and post-trial alternatives.

b. Develop a comprehensive list of pre- and post-trial alternatives that can be initiated in-house or externally from the jail.

c. Develop a "Funding Source Information Service" and "Grant Application Assistance Service" to inform the rural community of the many sources that can be utilized to support the program.

d. Develop in-house release programs (ROR, Citation Release, Stationhouse Release, etc.) that can be immediately implemented by law enforcement or corrections officers. This would result in on-site sessions by NIC to local agencies and communities.

Staff Development

Short-term Strategy:

a. An agency should be allowed funds to develop personnel administration materials in the areas of pre-service training, in-service training and career development facilitation. Programs to conduct on-site testing of the materials should be developed.

b. Materials should be developed and on-site testing conducted for the areas of recruitment, minimum entry-level qualifications, and valid assessment tools.

Long-term Strategy:

On a long-range basis, NIC should:

a. Continually update and validate the previously developed personnel administration materials and techniques.

b. Inform agency officials of the availability of personnel administration materials.

c. Provide necessary technical assistance on-site to selected jail administrators.

Jail Standards and Standards Implementation Development

Short-term Strategy:

An agency should complete the following aspects of standards development:

a. Some agency should become an information clearinghouse for all special interest groups who wish to assist in developing standards for jails and should disseminate this information to state sheriffs' associations, associations of chiefs of police, state corrections divisions or others who request such information.

b. There should be a central repository for present standards developed by states for the operation of jails. Such information should be provided to requesting agencies.

c. A professional sound/slide program on possible desirable correctional or jail standards should be developed that could be sent to states for presentation to special interest groups, professionals and government personnel as well as lay citizens.

d. There should be identification of a mechanism for standards development--i.e., Who are the developers, legislators, sheriffs' associations, bar associations or special commissions?

e. Impact of implementation of standards, especially economic impact, should be detailed.

f. Techniques for "good faith compliance" should be developed and disseminated to bridge the gap between adoption of standards and the reality of complete implementation. Such "good faith" techniques could include time phase implementation, compliance with the spirit of a specific standard, etc.

Long-term Strategy:

> A federal agency should grant funds to those states which have not developed standards for construction or operation of jails by 1980.

Strategy Implementation

Because the National Institute of Corrections Jail Center is mandated to offer training, technical assistance, information and policy development assistance to jail systems through its center in Boulder, the agency has developed an implementation strategy to deal with the problems and solutions identified by the participants in the "Small Jail Hearings." NIC developed the strategy by integrating the hearings issues with existing jail systems development programs and by designing a grant proposal specifically addressing needs not integrated in the existing programs. The implementation strategy includes the five major problem areas previously identified and discussed.

Comprehensive Planning

An existing NIC program entitled Planning to Open a New Institution (PONI) is a training and community organization program which establishes comprehensive planning for communities planning new jail facilities. Information from Phase I of PONI which concerns small communities will be collected, summarized and made available to other communities.

The NIC Area Resource Center in the Boulder County Sheriff's Department is utilized as a demonstration model for comprehensive community planning. Community criminal justice practitioners, especially sheriffs, are invited to visit the Boulder system to receive information relating to the Boulder experience.

The NIC Jail Center Clearinghouse and the LEAA Criminal Justice Resource Center possess written materials relating to the development and experience of comprehensive community planning.

Development of a Model Policy and Procedures Manual

NIC has developed an instructional manual for jail managers describing the techniques for developing jail policies and procedures. This booklet is available to agencies on request.

A grant proposal was developed by NIC to specifically meet the policy and procedures development needs of small jail systems. The grant includes the following elements:

> A text will be developed entitled "Managing the Small Jail" which will be a comprehensive review of small jail management. The content of the text should include all basic internal functions of small jails--staff development strategies, techniques and materials; community services development for in-house jail programs and for alternatives to incarceration; and criminal justice system and community planning for jail needs.

The development of materials would facilitate the individual jail manager and the correctional trainer in the formulation of jail policies and procedures. These materials will include the following elements:

(1) A manual describing how to write policies and procedures.

(2) A manuscript discussing court decisions and standards that relate to jail policies. Model policies and procedures should be included as examples of the desired end results.

(3) A student's workbook and an instructor's manual designed for a training session which would assist trainees in learning how to write constitutional and effective jail policies and procedures.

A pilot training program will be organized utilizing the materials and involving twenty-five jail managers of small jails as trainees to test the validity of these training materials. Three managers of progressive small jails should be designated as readers of "Managing A Small Jail" to assess its content. The weaknesses of the materials and the process should then be adjusted and materials revised accordingly.

The implementation of a training program for state training academy trainers will be accomplished. The objective of this element is to train trainers in the use of the developed materials so they would be able to extend the policy and procedure development to their respective small jail agencies. The target should be to train three to five trainers from twenty states in three regional workshops.

Alternatives to Incarceration

LEAA and the NIC Clearinghouse functions have several documents available for agencies requiring information concerning alternatives to incarceration and concerning techniques of community planning necessary to develop alternatives. NIC has designated area (jail) resource centers in Benton County, Oregon and Fort Scott, Kansas. Both of these resource centers are examples of small jails which use alternatives to incarceration to effectively limit their jail populations and to effectively integrate with community resources. Visits to resource centers by jail administrators are part of the NIC technical assistance program. The text of "Managing A Small Jail" which will be developed through the NIC small jail management grant will include a chapter on alternatives to incarceration in smaller communities.

Staff Development

The NIC Jail Center conducts regular jail management programs for sheriffs and administrators at a University of Colorado conference center in Boulder. These two-week sessions are available to all jail managers at no cost to individuals or local counties. The training covers the area of personnel administration as regular program content. The resource text will include information concerning personnel function and this document will be the basis of regional training programs for small jails.

Development of State Jail Standards

Through grants LEAA and NIC have funded, many state efforts for state jail standard development and state standard implementation programs have been developed. For example, there are currently several states (California, Nebraska, Maine, Michigan and Georgia) which are revising their standards with some federal agency assistance--either through grants or technical assistance.

· The American Correctional Association has developed and distributed ACA standards for local adult detention facilities. These standards are used by some as model standards for developing policy and procedures for jails. The ACA standard development process was funded by LEAA and includes an audit and accreditation process.

Summary

The National Institute of Corrections, an agency of the U.S. Department of Justice designed to assist correctional agencies, held hearings on small jail management to identify the problems of small and rural jails and to focus on strategies for solving these problems.

Through a needs analysis process, five major problem areas were identified and corresponding short- and long-term solution strategies proposed. The major problems were: lack of comprehensive community criminal justice planning; lack of written policies and procedures for small jails; lack of alternatives for incarceration; lack of staff development procedures; and lack of effective state jail standards.

After solutions were proposed, NIC integrated the small jail's needs with existing federal programs and developed a small jails management grant to address remaining needs not met by current programming.

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CHAPTER XIV

MARENGO COUNTY JAIL INMATE SERVICES PROGRAM

by Michael Haley
and
W.H. Smith

The inmate services program in the Marengo County Jail in Linden, Alabama, is applicable to any other small jail. They do not exist because of an acceptable jail facility, liberal community standards or any other such external criteria. Instead, they exist in spite of the reality of a poor physical facility, very conservative community standards and few resources, including finances. To place the Marengo County program in perspective, perhaps emphasis on a few key points is appropriate.

The Marengo County Jail, although it is only sixteen years old, was built only as a detention facility. There is no space for recreation, classroom instruction, group assembly or proper exercise. There are no single cells and the jail does not meet any contemporary standards of physical jail construction.

Marengo County is located in a very conservative section of the country. In fact, the predominate local attitude favors capital punishment, long and determinate sentences, and strict control of inmates and institutions. Law enforcement is held in high esteem; strict enforcement of the law is a priority among the citizens of the county.

Financially, the county operates on a "shoestring" basis. No local money was (or is) available to provide extra inmate services. The Marengo County Jail has been overcrowded for three years. A 1978 survey indicated the average jail sentence was 25.15 years. The jail staff is inadequate both in numbers and professional training.

In spite of the negative overtones of many of these points, the inmate services program in Marengo County has been successful. A simple elaboration may explain why.

There is no feasible way to remedy the fact that eight-person cells must be used and there is inadequate space for desired inmate programs. Our jails have these cells and there is no money available to correct the problems they create so we must live with the reality of the building. However, a slight bit of ingenuity allows the inadequate building to be useful in providing services for inmates:

- Conversion of the former jailer's living quarters into offices for counseling and jail administration.
- Designation of certain portions of the inmate living areas for work release and trusty status inmates.

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- Installation of fluorescent lighting and the application of new paint to make the jail seem less gloomy (paid for by the inmates).

- Installation of emergency lighting and smoke detection devices (paid for by the inmates).

- Installation of two-way telephones for visiting (paid for by the inmates).

- Other inexpensive modifications in the jail.

The philosophy of the county is conservative. Therefore the service programs in the jail are stressed as part of the overall task of jail administration with continued public emphasis on security, the legality of inmate management and the reduction of the recidivism rate. Numerous talks to church, civic, school and other groups preceded the development of any programs in the jail. Presentations to citizens' groups continue with an emphasis on the need for volunteer assistance in the jail.

Development of the jail program was an integral part of the law enforcement and judicial process. This required both verbal and logistical support from the sheriff as well as cooperation from other law enforcement officers and agencies. This helped "sell" the program to the public. Grant monies from LEAA, CETA, etc., were utilized to pay for services.

Overcrowding is a result of a federal court order which prohibits the Alabama Board of Corrections from accepting any new inmates in the state prison system until the populations of the various systems are down to their designed capacities. Therefore all state-sentenced inmates have been kept in the Marengo County Jail for sentences ranging from thirty days to life.

Until very recently, the jail was forced to operate each shift with one person who served as a combination jailer/radio operator. Now two persons work each shift--one jailer and one radio operator.

Another significant point that might need emphasis is the fact that there are few resources available in Marengo County for the jail program. With the exception of the West Alabama Mental Health Center, there are no vocational rehabilitation or other social service agencies located in the county. The nearest college (University of Alabama) is sixty miles away; the nearest hospital is fifteen miles away. Still, many social services are available to the jail through cooperative agreements with the appropriate agencies.

The key to the success of the program in Marengo County is a little bit of innovation and a lot of willingness. A program must have these to develop and exist and, in the long run, these factors are more important than adequate physical facilities, resources and finances.

It seems feasible for any small jail to develop an appropriate inmate services program. The following ideas could be utilized in almost any situation.

A cooperative agreement with the local mental health center to provide mental health services. Most mental health centers are eager to find new avenues for service not only to provide better service to their areas but also to be able to justify present and future funding. In many areas it is required that mental health centers provide service as requested. In most cases local county governing bodies provide some funding for local mental health centers and can "insist" that services be provided to the jail.

A cooperative agreement with the nearest Veterans Administration Hospital to provide services to VA-eligible inmates. VA hospitals have community teams which will go to the jail and assist in providing services to VA-eligible inmates at no cost to the jail.

A cooperative agreement with the nearest Vocational Rehabilitation Service (or the state's equivalent) to provide service to eligible inmates. Most VRS services will send counselors to the jail to provide service at no cost to the jail.

A cooperative agreement with your state's GED testing agency (usually the State Department of Education) to provide GED testing opportunities in the jail. The cost usually is minimal and sometimes is free.

A cooperative agreement with the nearest college or university to provide opportunities for field placement of students. Most colleges, especially schools of social work, are eager to find new areas for field placement of students who need a semester of clinical work. Such an arrangement could provide the jail with a social worker at no cost to the jail.

A cooperative agreement with the local health department to provide a RN or other authorized medical person to screen inmates who request to see a physician and make a determination as to which ones actually should be carried to the doctor. When requested, such service usually cannot be justifiably denied especially when the county governing body funds the health department.

Development of work release program. This provides work opportunities for motivated and qualified inmates, provides a positive atmosphere of incentive for inmates and promotes good behavior, and produces revenue for the sheriff's department or the county governing body. Such a program could be established as a result of local legislation or through a contractual agreement with the county governing body or some other appropriate agency. [In Alabama, a contract may be made with the State Board of Corrections for working state prisoners and local legislation allows for working county prisoners. The contract and/or the legislation dictate the operation of the work release program to help reduce the liability of the sheriff.]

Solicitation of involvement by local community volunteer groups--church, civic, other. Volunteer groups can be utilized to develop a jail library, to provide toilet articles for the inmates, to provide special "treats" at holiday time (fruit baskets, gifts, etc.), and to assist in special projects at the jail. Most groups are eager to become involved in such activities and need only to be asked.

Utilization of LEAA and other available grant monies to develop a program and employ staff either on a full-time or a contractual basis. [In Marengo County, the sheriff's department uses LEAA grant money to contract with the West Alabama Mental Health Center for a psychologist with corrections experience to work in the jail thirty-six hours per week.]

Anything that might be appropriate to your particular jail, community or situation.

Such programs offer assistance to the problems of inmate management in several ways.

- Involvement of the local mental health center provides appropriate services to mentally ill inmates both on an acute (emergency) and long-term basis. In addition, all of the resources of the center are available to the jail--testing, counseling, diagnostic and evaluative services, mental retardation services, etc.
- Involvement of other services (VA, VRS, etc.) provides service to "nuisance" type inmates who otherwise would require a great deal of attention from the jail staff.
- Inmate behavior improves when the inmates are offered an incentive to behave. In turn, vandalism and physical attacks in the jail are also reduced.
- Security in the jail is improved as inmates become involved in positive programs and better communication develops between inmates and jail personnel.
- Revenue generated by a work release program can be used in the jail to improve security features, to meet fire and safety standards, to improve the physical facility itself, etc.
- The rate of recidivism can be reduced. [The recidivism rate for those persons who have been involved in the mental health/ rehabilitation program in the Marengo County Jail is approximately seven percent. There is a sixty-six percent recidivism rate in the State of Alabama for inmates who do not participate in inmate service programs.]
- As the jail improves and begins to receive positive local recognition, more citizens become interested in the operation of the jail, more persons volunteer to assist in the jail programs and the community begins to take pride in the local jail as a correctional facility. [Instead of being "the" jail, it becomes "our" jail.]

All of the above is not to say that the development of an inmate services program in the jail is a simple task. It is not! It does say new facilities, large budgets, large staffs and court orders are not necessary in order to improve our jails and to make them productive institutions in our community. Also, it does not say all inmates will participate in and benefit from such programs. Indeed, some inmates will refuse to participate and other inmates will be refused the opportunity to participate because of the security risk involved.

The important point is that such a program is feasible for the small county jail. Properly implemented, this type of program benefits inmates, law enforcement and the community, and does not pose a threat to the primary concern of the jail--security.

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Whatever you might choose to do in your jail, be practical about it.

- Cooperate with the courts and law enforcement agencies. Don't isolate your jail and its programs from the rest of the criminal justice system in your area. Cooperation and communication can only help.

- Conduct an "open" jail. Don't try to conceal what you are doing from the community. Utilize the local press and speaking engagements to inform and to elicit support.

- Keeps things in perspective. Security is the primary function of the jail. Do not neglect security in implementing an inmate services program. Use your program to enhance your security.

- Let inmates participate in your programs on a voluntary basis. Compulsary participation = poor results.

- Use community volunteers but screen them carefully. Set up guidelines for volunteer participation and stick to them.

- Use the programs and resources of existing social service agencies. They are already funded and services to the jail probably won't cost you anything.

- Remember mental health services are not limited to people who are in a serious mental condition. Mental health should refer to any jail programs or services designed to meet the needs of inmates. This includes programs designed to treat acute or chronic mental disorders as well as provide rehabilitative opportunities for motivated inmates.

CHAPTER XV

GROUP PSYCHOTHERAPY IN A REGIONAL CORRECTIONS SETTING: PHILOSOPHY AND APPLICATION

by Dan Lawrence
and
Joyce Piispanen

Introduction

The Northeast Regional Corrections Center (NERCC), a residential treatment facility located in the Arrowhead region of northern Minnesota, is situated about twenty miles north of Duluth. NERCC receives its clients primarily from the six counties that comprise the region. Approximately 300 adult male misdemeanants and first conviction felons are placed at NERCC each year. Clients, most between the ages of eighteen and twenty-four, are placed at NERCC by the county courts as an alternative to jail or prison.

The NERCC treatment philosophy revolves around providing clients with the "maximum opportunity . . . to avoid further contact with the criminal justice system . . . by providing the individual with a vehicle to bring about the changes necessary to enable him to once again become a productive member of the community" (NERCC pamphlet, 1978). While working to accomplish this, NERCC also serves the courts and protects the community.

NERCC has a sixty-year history which dates back to 1913 when the St. Louis County Work Farm was established. In 1929, the Work Farm was moved from its original location to a new and larger location on 3,200 acres that enable the facility to raise all the necessary meat and produce. In the past, logging and farming were the main activities of the men sentenced to the Work Farm. This was extremely practical since most of those men were either woodsmen or farmers. In 1972, the Work Farm became the Northeast Regional Corrections Center and began serving Lake, Cook and Carlton counties as well as St. Louis County. At about the same time, the main building was remodeled and education and treatment programs were begun. With these changes, the courts began placing younger offenders with longer sentences at NERCC. More felons and fewer misdemeanants were sentenced to NERCC and approximately eighty-five percent felons and fifteen percent misdemeanants comprised the facility's population.

Further reorganization took place in 1976 when two other counties, Koochiching and Aitkin, joined the original four, St. Louis, Carlton, Lake and Cook, to become the six-county region under the Minnesota Community Corrections Act to form Arrowhead Regional Corrections (ARC). The Community Corrections Act offers financial incentive to counties which deal with their offenders locally. The CCA allocates money to ARC for the purpose of developing and maintaining regional corrections programs and services. The more offenders kept in the region, the greater the allocation since ARC must pay a per diem charge to the state for every juvenile and adult committed to a state institution for a period of five years or less.

NERCC receives funding for its $850,000 per year budget from several different sources, most of which predate the Community Corrections Act.

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These include: shares from the six participating counties which are arrived at by demographic analysis; Department of Education funds allocated under eligibility formulas according to number of students enrolled; Community Corrections Act funds allocated according to annual daily average population figures; per diems from nonparticipating counties; farm income from whatever can be raised and sold; and income from a state-licensed shooting preserve available for use by the public on a per-hunt contract basis.

The staff at NERCC is comprised of thirty-six full- or part-time employees. Of the thirty-six, five are considered administrative staff. Being as diverse an operation as NERCC is, the job descriptions include such positions as group leader/ caseworker, teacher, meat cutter, mechanic and herdsman.

Referral, Orientation and Daily Living

Residents are received at NERCC directly from the courts and arrive via St. Louis County sheriff's deputies or NERCC's transportation unit. Upon arrival, the individual is booked, photographed, assigned living quarters and oriented by both staff and a representative of the resident council. Commitment papers are recorded and filed, clothing and personal items are checked. Within two days the resident is assigned a caseworker. Felons are generally assigned to a therapy group within two weeks of arrival as an opening occurs. New residents are given a resident's handbook and an orientation to both the physical layout and the expectations of NERCC. The handbook is written in a manner which emphasizes responsibility rather than rules. The expectation is that one will behave responsibly rather than irresponsibly at NERCC. The resident is told the staff will not accept responsibility for everything that does or should happen at NERCC; staff will do their part and residents are expected to do the same.

Residents at NERCC are allowed to bring clothing and personal possessions with them. Hot plates, food and food preparation are not allowed in the rooms for fire and sanitary reasons. Clean linen is available as needed and is regularly exchanged twice per week. Work clothes and boots are provided for those assigned to outside jobs. Meals are at 7:00 a.m., 12:00 noon, and 5:00 p.m.; the main meal is in the evenings and snacks are provided on a limited basis around 9:00 p.m. Through their elected resident council, the residents operate a canteen which is open at various times during the day and evening. The profits go to the residents and with them they have purchased a foosball table, refrigerator, washer and dryer for their use. The resident manager handles his own inventory and ordering.

There is a resident council meeting on Wednesdays and a staff-resident meeting the following day each week. This serves as the vehicle for generating suggestions, complaints, changes where feasible and provides staff and residents with a forum. Residents receive a weekly allowance that amounts to 75¢ per day for either a five-day or a seven-day job depending on the resident's preference and NERCC's need. Residents may carry up to $20 although this is not generally enforced since it is rarely a problem. Buying and selling among residents is discouraged because it leads to some residents being taken advantage of and results in needless friction. Visiting hours are 9:30 a.m. to 4:30 p.m. on weekends and holidays but no one would be turned down for a special visit if appropriate. Visitors can include family and close relatives; friends are cleared through the resident's caseworker.

New residents are usually first assigned to the utility crew. This crew is assigned general outside upkeep and maintenance. As with all work assignments, the residents work with and are supervised by a staff member. After residents are at NERCC for a while and demonstrate some degree of responsibility, they may move into jobs of preference as openings occur. If a resident is interested in schooling, he is tested and evaluated according to need and preference and placed in the education program. This is usually a half-day program alternating with a work assignment. Residents are expected to be ready for work by 8:00 a.m., break for lunch from 11:30 a.m. to 12:30 p.m. and finish with work by 4:15 p.m. Except for group meetings, the remainder of the day is free for recreation and arts and crafts as preference dictates.

Group Therapy and Educational Programming

Group therapy is the core of the program at NERCC and utilizes the Positive Peer Culture (PPC) methodology. This is a derivation of the Guided Group Interaction method pioneered at Highfields, New Jersey, and uses much of the same format and tenets. The basic philosophy and expectations of PPC center around the following statements:

- You are "your brother's keeper."
- People can and will change if given the opportunity.
- Everyone wants to feel good about themselves.
- Everyone wants help whether or not they admit it.
- First help another and when you feel good about that, get help for yourself.
- If you didn't need help and could do it alone, you wouldn't be here.
- You can only help, not hurt.
- Problems are healthy.
- Insight alone doesn't change one's behavior.
- It is okay to care for another person and to show it.

The philosophy of these statements typifies the whole NERCC approach of high ideals combined with an element of pragmatism.

Groups are comprised of a maximum of ten members. Insofar as is possible, they live, eat, sleep, recreate and work together. This is done so the members can get to know one another as intimately and as quickly as possible and to be present if another group member has a problem. The group process is considered a 24-hour-a-day experience and group members are expected to respond when needed by another group member whether help is requested or not. It is primarily because of this group process that there is a high trust level between staff and residents at NERCC. This has served to virtually eliminate traditional problems such as drugs, intimidation, assault and institutional homosexuality.

After being placed in a group, a new member tells his life story so his group members can establish the pattern of behavior that got him into trouble and brought him here and to learn about his day-to-day behavior. Once done, they have a handle on the value system that underlies these behavior patterns. The process of change can then begin, mainly by focusing on replacing the old destructive habit (e.g., stealing cars to impress an associate) with a new constructive habit (feeling good about one's self and having no need to show off). Although this is primarily a conscious process, it is not a simple one--anyone who has ever tried to quit smoking can attest to that. The process is remarkably similar to and incorporates a great deal of the same philosophy used by Alcoholics Anonymous.

As group members progress, they are eligible to earn home visits, Huber (work release) and an early release. This is done not by "points," but by demonstrating in everyday life that the individual is a helping, caring person who is making progress on his problems, i.e., being responsible. The most difficult people to convince in this process are his own group members. There are a number of checks and balances in acquiring these privileges for one's self. First there is an intensive group investigation leading to a recommendation, then the group leader must agree. The staff, the probation officer and finally the sentencing judge must then agree to the recommendation. There are five checks and balances along the way, and a recommendation can die at any juncture. Most recommendations are stopped by the group; this is as it should be if group members really care and do not want to see an individual hurt himself. By these methods, the NERCC/PPC program makes use of one of the most powerful resources of society: the peers.

Group meetings are scheduled for an hour and a half every night, four nights each week (Monday, Tuesday, Thursday and Friday). They begin at either 5:30 or 7:30 p.m. The format of the meetings is as follows:

> Problem Session--a discussion of the day's problems and events by each member and any feelings that are causing him concern.
>
> Awarding the Meeting--deciding who should receive the night's meeting based on a discussion of an individual's needs, seriousness of problems, willingness to make use of the meeting, amount of time since his last meeting; usually between two or three individuals, yet not a "vote" or popularity contest.
>
> Body of the Meeting--discussion between the group and the individual awarded the meeting about the issues of concern; not an intellectual exercise, as it deals with "gut" issues.
>
> Summary--the group leader "ties" the significance of the group meeting together with help from the group and puts the meeting in perspective. Other than this, the group leader is more an observer than a participant.

Once a month, a progress report to each resident's probation officer is prepared by the group leader. It is the group member's responsibility to ask that it be read on the day it is due. It is then read by the group leader in the meeting prior to the problem session and any comments are then voiced.

Therapeutic problems are the lifeblood of the therapy program and the vehicle by which change in an individual is brought about. If problems can be dealt with on a reduced scale, then everyone can get the help they need and no one will be hurt as a result. The trick, then, is to reduce the problem to a much lower denominator than society is accustomed to dealing with. For example, stealing a pack of cigarettes denotes the same value system as stealing a car, only the price tag is different. In this case, the value system permits the individual to take what he wants when he doesn't have it and cannot buy it. If problems brought someone here, then his only hope for "making it" on the "outs" is that these problems be identified and resolved; otherwise the cycle is doomed to repeat itself. Traditional correctional institutions generally develop their programming around suppressing problems rather than developing and utilizing them productively. It is for this reason the resident handbook and the institutional expectations system were designed as they were. They do not remove the possibility for problems to occur, yet address themselves to such issues as due process and prisoners' rights.

In keeping with NERCC's philosophy of treating the whole person, the education program is individualized and diverse. It provides adult basic education, general and high school level study, pre-vocational counseling and training, driver's education and defensive driving, recreational programming, regional educational and vocational counseling, job development, a reference library and access to off-campus educational and vocational programs through work release.

At any time, approximately one-half of the given population is enrolled in the education program. Most residents spend a half day in school and are assigned to a job for the other half (the job may be a pre-vocational setting). This, in effect, breaks up the day for the resident and enables those in PPC groups to attend school at the same time their group members are in school. This is an advantage for both the groups and the school, as group members frequently help one another with their assignments.

Evaluation

A research proposal concerning the Positive Peer Culture program at NERCC has been prepared by a staff member of the Arrowhead Regional Corrections Research Unit. Data collection and analysis, when completed, will provide an assessment of program effectiveness, with recidivism (conviction of a new offense) as the dependent variable. This study is of a quasi-experimental nature since random assignment to programs does not take place. An *ex post facto* type nonequivalent control group design will be utilized with multiple groups, multiple observations, pretesting on the quantitative aspect of the dependent variable, and either matching across groups or multivariate analysis of data. Comparison groups will be drawn from other probation groups and from other incarcerated groups. Groups will be compared on the basis of recidivism rates across several variables including exposure to PPC and other conditions of services or probation, race and marital status.

When completed, recidivism rates will be available on each of the five PPC groups at NERCC, as well as on each of the following groups:

- Pre-PPC groups--felons who were at NERCC prior to implementation of PPC.
- Non-PPC groups--felons who were at NERCC after implementation of PPC but who were not PPC group members.
- Intensive probation groups.
- Conventional probation groups.
- State incarceration groups.

In addition, recidivism rates will be computed on groups according to race, marital status, length of participation in program and program completion. Severity or seriousness of crime will be examined using an index obtained by taking the maximum adult prison sentence for offenses and recoding it into a scale of from one to 100. The recoding represents the proportion of an average adult lifetime that could be spent in prison for a particular offense. Crime severity will be computed separately for adult priors, current convicting offense and future "recidivism" offenses. Differences in recidivism rates and crime severity rates between groups will be examined for statistical significance.

Editors' Notes

1. It is readily apparent from a review of both the Marengo County, Alabama jail program and the experience of Minnesota's Northeast Regional Corrections Center that two critical ingredients for successful rural jail programs are community involvement and support, and the resourcefulness of the jail staff. An outstanding example of the incorporation of these and other important factors in a rural jail staff training program is found in a 1967 two-volume publication entitled Rural Correctional Staff as Agents of Community Change available from the NCJRS Document Loan Program, Box 6000, Rockville, Maryland. The publication explores the unique characteristics and problems of correctional personnel and training efforts in rural settings and sets forth guidelines for implementing staff training programs for rural, community-based correctional personnel.

2. For an account of another noteworthy rural correctional experiment, see J.L. Fleer and R.A. Pasewark, "Work Release in a Rural State," Offender Rehabilitation, Vol. 1 (2), pp. 173-179, Winter 1976-77. The apparent success of this Wyoming program, undertaken despite the admonitions of the contemporary literature of that time, suggests that the rural setting may indeed be particularly well-suited to many of the jail reform concepts receiving nationwide endorsement today.

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